

THURSDAY, MAY 11, 1989

FORTY-FIFTH LEGISLATIVE DAY

The House met at 9:00 a.m. and was called to order by Mr. Speaker Murray.

The proceedings were opened with prayer by David Bartholemew, Trimble Baptist Church, Trimble, Tennessee.

Representative Phillip Pinion led the House in the Pledge of Allegiance to the Flag.

The roll call was taken with the following results:

Present . . . . . 95

Representatives present were: Anderson, Armstrong, Bell, Bittle, Bivens, Bragg, Buck, Burnett, Byrd, Cain, Callicott, Chiles, Clark, Coffey, Collier, Copeland, Crain, Cross, Curlee, Davidson, Davis (Cocke), Davis (Gibson), Davis (Knox), DeBerry, DePriest, Dixon, Duer, Ellis, Gaia, Garrett, Givens, Good, Gunnels, Halteman, Harrill, Hassell, Haun, Hawkins, Head, Henry (Putnam), Henry (Roane), Herron, Hillis, Hobbs, Holcomb, Holt, Hubbard, Huskey, Jackson, Jones, R. (Shelby), Kent, Kernell, King, Kisber, Love, McAfee, McDaniel, Miller, Moody, Moore (Lawrence), Naifeh, Napier, Niceley, Nuber, Odom, Peroulas, Phillips, Pinion, Pruitt, Purcell, Rhinehart, Ridgeway, Robinson (Davidson), Robinson (Hamilton), Robinson (Washington), Scruggs, Severance, Shirley, Sipes, Stallings, Stamps, Starnes, Turner (Hamilton), Turner, C. (Shelby), Turner, L. (Shelby), Ussery, West, Whitson, Williams, Winningham, Wix, Wolfe, Wood, Yelton, Mr. Speaker Murray -- 95.

EXCUSED

The Speaker announced that the following member(s) has/have been excused, pursuant to request(s) under Rule No. 20:

The Speaker announced that Representative Webb was excused because of personal business.

ENROLLED BILLS  
May 10, 1989

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have carefully compared House Joint Resolution(s) No(s). 344, 345, 346, 347, 348, 349 and 351; and House Resolution(s) No(s).

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10, 51 and 53; and find same correctly enrolled and ready for the signature(s) of the Speaker(s).

BETTY KAY FRANCIS,  
Chief Engrossing Clerk.

MESSAGE FROM THE GOVERNOR  
May 10, 1989

MR. SPEAKER:

I am directed by the Governor to return herewith: House Bill(s) No(s). 1305, with his approval.

DAVID H. WELLES,  
Counsel to the Governor.

REGULAR CALENDAR

House Bill No. 0298 -- Gas, Petroleum Products, Volatile Oils --  
Revises conditions for release of reclamation land. Amends TCA,  
Title 60, Ch. 1, Pt. 7.

On motion, House Bill No. 298 was made to conform with Senate  
Bill No. 117.

On motion, Senate Bill No. 117, on same subject, was substituted  
for House Bill No. 298.

Rep. Winningham moved that Senate Bill No. 117 be passed on  
third and final consideration, which motion prevailed by the  
following vote:

Ayes. . . . .	92
Noes. . . . .	1

Representatives voting aye were: Anderson, Armstrong, Bell,  
Bittle, Bivens, Bragg, Buck, Burnett, Byrd, Cain, Callicott, Chiles,  
Clark, Coffey, Collier, Copeland, Crain, Cross, Curlee, Davidson,  
Davis (Cocke), Davis (Gibson), Davis (Knox), DeBerry, DePriest,  
Dixon, Duer, Ellis, Garrett, Givens, Good, Gunnels, Halteman,  
Harrill, Hassell, Haun, Hawkins, Head, Henry (Putnam), Henry  
(Roane), Hillis, Hobbs, Holcomb, Holt, Hubbard, Huskey, Jackson,  
Jones, R. (Shelby), Kent, Kernell, Kisber, McAfee, McDaniel, Miller,  
Moody, Moore (Lawrence), Moore (Shelby), Naifeh, Napier, Niceley,  
Nuber, Odom, Peroulas, Phillips, Pinion, Pruitt, Purcell, Rhinehart,  
Ridgeway, Robinson (Davidson), Robinson (Hamilton), Robinson  
(Washington), Scruggs, Severance, Shirley, Sipes, Stallings, Stamps,  
Starnes, Turner (Hamilton), Turner, C. (Shelby), Turner, L.  
(Shelby), Ussery, West, Whitson, Williams, Winningham, Wix, Wolfe,  
Wood, Yelton, Mr. Speaker Murray -- 92.

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Representatives voting no were: Herron -- 1.

A motion to reconsider was tabled.

**House Bill No. 0798 -- Savings and Loan Associations -- Enacts "Tennessee Mutual Savings and Loan Holding Company Act".**

On motion, House Bill No. 798 was made to conform with Senate Bill No. 269.

On motion, **Senate Bill No. 269**, on same subject, was substituted for House Bill No. 798.

Rep. Buck moved that Senate Bill No. 269 be passed on third and final consideration, which motion prevailed by the following vote:

Ayes. . . . .	96
Noes. . . . .	0

Representatives voting aye were: Anderson, Armstrong, Bell, Bittle, Bivens, Bragg, Buck, Burnett, Byrd, Cain, Callicott, Chiles, Clark, Coffey, Collier, Copeland, Crain, Cross, Curlee, Davidson, Davis (Cocke), Davis (Gibson), Davis (Knox), DeBerry, DePriest, Dixon, Duer, Ellis, Gaia, Garrett, Givens, Good, Gunnels, Halteman, Harrill, Hassell, Haun, Hawkins, Head, Henry (Putnam), Henry (Roane), Herron, Hillis, Hobbs, Holcomb, Holt, Hubbard, Huskey, Jackson, Jones, R. (Shelby), Jones, U. (Shelby), Kent, Kernell, King, Love, McAfee, McDaniel, Miller, Moody, Moore (Lawrence), Moore (Shelby), Naifeh, Napier, Niceley, Nuber, Odum, Peroulas, Phillips, Pinion, Pruitt, Purcell, Rhinehart, Ridgeway, Robinson (Davidson), Robinson (Hamilton), Robinson (Washington), Scruggs, Severance, Shirley, Sipes, Stallings, Stamps, Starnes, Turner (Hamilton), Turner, C. (Shelby), Turner, L. (Shelby), Ussery, West, Whitson, Williams, Winningham, Wix, Wolfe, Wood, Yelton, Mr. Speaker Murray -- 96.

A motion to reconsider was tabled.

**House Bill No. 0830 -- Banks and Financial Institutions --** Permits banks to receive compensation for furnishing data regarding bank customers to insurance providers. Amends TCA 56-6-149, 56-6-201.

On motion, House Bill No. 830 was made to conform with Senate Bill No. 456.

On motion, **Senate Bill No. 456**, on same subject, was substituted for House Bill No. 830.

Rep. Garrett moved that Senate Bill No. 456 be passed on third and final consideration, which motion prevailed by the following vote:

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Ayes. . . . .	97
Noes. . . . .	0

Representatives voting aye were: Anderson, Armstrong, Bell, Bittle, Bivens, Bragg, Buck, Burnett, Byrd, Cain, Callicott, Chiles, Clark, Coffey, Collier, Copeland, Crain, Cross, Curlee, Davidson, Davis (Cocke), Davis (Gibson), Davis (Knox), DeBerry, DePriest, Dixon, Duer, Ellis, Gaia, Garrett, Givens, Good, Gunnels, Halteman, Harrill, Hassell, Haun, Hawkins, Head, Henry (Putnam), Henry (Roane), Herron, Hillis, Hobbs, Holcomb, Holt, Hubbard, Huskey, Jackson, Jones, R. (Shelby), Jones, U. (Shelby), Kent, Kernell, King, Kisber, Love, McAfee, McDaniel, Miller, Moody, Moore (Lawrence), Moore (Shelby), Naifeh, Napier, Niceley, Nuber, Odom, Peroulas, Phillips, Pinion, Pruitt, Purcell, Rhinehart, Ridgeway, Robinson (Davidson), Robinson (Hamilton), Robinson (Washington), Scruggs, Severance, Shirley, Sipes, Stallings, Stamps, Starnes, Turner (Hamilton), Turner, C. (Shelby), Turner, L. (Shelby), Ussery, West, Whitson, Williams, Winningham, Wix, Wolfe, Wood, Yelton, Mr. Speaker Murray -- 97.

A motion to reconsider was tabled.

**House Bill No. 0367 -- Aged Persons --** Creates long term care ombudsman program within commission on aging. Similar to SB 1143. Amends TCA, Title 71, Ch. 2.

On motion, House Bill No. 367 was made to conform with Senate Bill No. 196.

On motion, Senate Bill No. 196, on same subject, was substituted for House Bill No. 367.

Rep. DeBerry moved that Senate Bill No. 196 be passed on third and final consideration, which motion prevailed by the following vote:

Ayes. . . . .	94
Noes. . . . .	0
Present and not voting. . . . .	1

Representatives voting aye were: Anderson, Armstrong, Bell, Bittle, Bivens, Bragg, Buck, Burnett, Byrd, Cain, Callicott, Chiles, Clark, Coffey, Collier, Copeland, Crain, Cross, Curlee, Davidson, Davis (Cocke), Davis (Gibson), Davis (Knox), DeBerry, DePriest, Dixon, Duer, Ellis, Gaia, Garrett, Givens, Good, Gunnels, Halteman, Harrill, Hassell, Haun, Hawkins, Head, Henry (Roane), Herron, Hillis, Hobbs, Holcomb, Holt, Hubbard, Huskey, Jackson, Jones, R. (Shelby), Jones, U. (Shelby), Kent, Kernell, King, Kisber, Love, McAfee, McDaniel, Miller, Moore (Lawrence), Moore (Shelby), Naifeh, Napier, Niceley, Nuber, Odom, Peroulas, Phillips, Pinion, Pruitt, Purcell, Rhinehart, Ridgeway, Robinson (Davidson), Robinson (Hamilton), Robinson (Washington), Scruggs, Severance, Shirley,

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Sipes, Stallings, Stamps, Starnes, Turner (Hamilton), Turner, C. (Shelby), Turner, L. (Shelby), Ussery, West, Whitson, Winningham, Wix, Wolfe, Wood, Yelton, Mr. Speaker Murray -- 94.

Representatives present and not voting were: Henry (Putnam)  
-- 1.

A motion to reconsider was tabled.

\*House Bill No. 0249 -- Health -- Provides for creation of public school nurse advisory councils within certain LEAs. Amends TCA 68-1-1204.

On motion, House Bill No. 249 was made to conform with Senate Bill No. 461.

On motion, Senate Bill No. 461, on same subject, was substituted for House Bill No. 249.

Rep. Peroulas moved that Senate Bill No. 461 be passed on third and final consideration, which motion prevailed by the following vote:

Ayes. . . . .	93
Noes. . . . .	0

Representatives voting aye were: Anderson, Armstrong, Bell, Bittle, Bivens, Bragg, Buck, Burnett, Byrd, Cain, Callicott, Chiles, Clark, Coffey, Collier, Copeland, Crain, Cross, Curlee, Davidson, Davis (Cocke), Davis (Gibson), Davis (Knox), DeBerry, DePriest, Dixon, Duer, Ellis, Garrett, Givens, Good, Gunnels, Halteman, Harrill, Hassell, Haun, Hawkins, Head, Henry (Putnam), Henry (Roane), Herron, Hillis, Hobbs, Holcomb, Holt, Hubbard, Huskey, Jackson, Jones, R. (Shelby), Jones, U. (Shelby), Kent, Kernell, King, Kisber, Love, McAfee, McDaniel, Miller, Moore (Lawrence), Moore (Shelby), Naifeh, Napier, Niceley, Nuber, Odom, Peroulas, Phillips, Pinion, Pruitt, Purcell, Rhinehart, Ridgeway, Robinson (Davidson), Robinson (Hamilton), Robinson (Washington), Scruggs, Severance, Shirley, Sipes, Stallings, Stamps, Starnes, Turner (Hamilton), Turner, C. (Shelby), Turner, L. (Shelby), Ussery, West, Whitson, Winningham, Wix, Wolfe, Wood, Yelton -- 93.

A motion to reconsider was tabled.

House Bill No. 0979 -- Boards and Commissions -- Allows teachers three sick leave days to serve on boards and commissions. Amends TCA, Title 49, Ch. 5.

On motion, House Bill No. 979 was made to conform with Senate Bill No. 109.

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On motion, **Senate Bill No. 109**, on same subject, was substituted for House Bill No. 979.

Rep. Peroulas moved that Senate Bill No. 109 be passed on third and final consideration.

Rep. Davidson moved to amend as follows:

**Amendment No. 1**

Amend Senate Bill No. 109 by designating the existing amendatory language of Section 1 as subsection (a) and by adding the following new subsection:

(b) A teacher shall be granted leave to serve on any board or commission of the state, the appointment to which is in the governor or the general assembly without forfeiture of accumulated leave credits of any type, tenure status, or other benefit.

On motion, Amendment No. 1 was adopted.

Thereupon, Rep. Peroulas moved that Senate Bill No. 109, as amended, be passed on third and final consideration, which motion prevailed by the following vote:

Ayes. . . . .	95
Noes. . . . .	0

Representatives voting aye were: Anderson, Armstrong, Bell, Bittle, Bivens, Bragg, Buck, Burnett, Byrd, Cain, Callicott, Chiles, Clark, Coffey, Collier, Copeland, Crain, Cross, Curlee, Davidson, Davis (Cocke), Davis (Gibson), Davis (Knox), DeBerry, DePriest, Dixon, Duer, Ellis, Gaia, Garrett, Givens, Good, Gunnels, Halteman, Harrill, Hassell, Haun, Hawkins, Head, Henry (Putnam), Henry (Roane), Herron, Hillis, Hobbs, Holcomb, Holt, Hubbard, Huskey, Jackson, Jones, R. (Shelby), Kent, Kernell, Kisber, Love, McAfee, McDaniel, Miller, Moody, Moore (Lawrence), Moore (Shelby), Naifeh, Napier, Niceley, Nuber, Odom, Peroulas, Phillips, Pinion, Pruitt, Purcell, Rhinehart, Ridgeway, Robinson (Davidson), Robinson (Hamilton), Robinson (Washington), Scruggs, Severance, Shirley, Sipes, Stallings, Stamps, Starnes, Turner (Hamilton), Turner, C. (Shelby), Turner, L. (Shelby), Ussery, West, Whitson, Williams, Winningham, Wix, Wolfe, Wood, Yelton, Mr. Speaker Murray -- 95.

A motion to reconsider was tabled.

**House Bill No. 1420 -- Highway Signs -- Names US 45 south from Jackson to Henderson the Major Robert "Buster" Sipes Parkway.**

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On motion, House Bill No. 1420 was made to conform with Senate Bill No. 1414.

On motion, **Senate Bill No. 1414**, on same subject, was substituted for House Bill No. 1420.

Rep. Sipes moved that Senate Bill No. 1414 be passed on third and final consideration, which motion prevailed by the following vote:

Ayes. . . . .	96
Noes. . . . .	0

Representatives voting aye were: Anderson, Armstrong, Bell, Bittle, Bivens, Bragg, Buck, Burnett, Byrd, Cain, Callicott, Chiles, Clark, Coffey, Collier, Copeland, Crain, Cross, Curlee, Davidson, Davis (Cocke), Davis (Gibson), Davis (Knox), DeBerry, DePriest, Dixon, Duer, Ellis, Gaia, Garrett, Givens, Good, Gunnels, Halteman, Harrill, Hassell, Haun, Hawkins, Head, Henry (Putnam), Henry (Roane), Herron, Hillis, Hobbs, Holcomb, Holt, Hubbard, Huskey, Jackson, Jones, R. (Shelby), Kent, Kernell, Kisber, Love, McAfee, McDaniel, Miller, Moody, Moore (Lawrence), Moore (Shelby), Naifeh, Napier, Niceley, Nuber, Odum, Peroulas, Phillips, Pinion, Pruitt, Purcell, Rhinehart, Ridgeway, Robinson (Davidson), Robinson (Hamilton), Robinson (Washington), Scruggs, Severance, Shirley, Sipes, Stallings, Stamps, Starnes, Turner (Hamilton), Turner, C. (Shelby), Turner, L. (Shelby), Ussery, West, Wheeler, Whitson, Williams, Winningham, Wix, Wolfe, Wood, Yelton, Mr. Speaker Murray  
-- 96.

A motion to reconsider was tabled.

**House Bill No. 0809 -- Law Enforcement Training Academy --** Commissions director of Tennessee Police training institute as a law enforcement officer; allows him to commission instructors. Amends TCA 38-8-207.

Rep. Wix moved that House Bill No. 809 be passed on third and final consideration.

Rep. Miller moved to amend as follows:

**Amendment No. 1**

Amend House Bill No. 809 by deleting in its entirety the amendatory language of Section 1, and by substituting instead the following language:

(b) The commissioner of safety may, at his discretion, commission the director of the Tennessee police training institute as a law enforcement officer and/or commission any instructor at such institute as a law enforcement officer on

the written recommendation to the commissioner by the director of the Tennessee police training institute. Any person who is commissioned pursuant to this subsection shall be sworn according to the provisions of Tennessee Code Annotated, Sections 8-8-101 and 8-18-111.

On motion, Amendment No. 1 was adopted.

Thereupon, Rep. Wix moved that House Bill No. 809, as amended, be passed on third and final consideration, which motion prevailed by the following vote:

Ayes. . . . .	97
Noes. . . . .	0

Representatives voting aye were: Anderson, Bell, Bittle, Bivens, Bragg, Buck, Burnett, Byrd, Cain, Callicott, Chiles, Clark, Coffey, Collier, Copeland, Crain, Cross, Curlee, Davidson, Davis (Cocke), Davis (Gibson), Davis (Knox), DeBerry, DePriest, Dixon, Duer, Ellis, Gaia, Garrett, Givens, Good, Gunnels, Halteman, Harrill, Hassell, Haun, Hawkins, Head, Henry (Putnam), Henry (Roane), Herron, Hillis, Hobbs, Holcomb, Holt, Hubbard, Huskey, Jackson, Jones, R. (Shelby), Jones, U. (Shelby), Kent, Kernell, King, Kisber, Love, McAfee, McDaniel, Miller, Moody, Moore (Lawrence), Moore (Shelby), Naifeh, Napier, Niceley, Nuber, Odom, Peroulas, Phillips, Pinion, Pruitt, Purcell, Rhinehart, Ridgeway, Robinson (Davidson), Robinson (Hamilton), Robinson (Washington), Scruggs, Severance, Shirley, Sipes, Stallings, Stamps, Starnes, Turner (Hamilton), Turner, C. (Shelby), Turner, L. (Shelby), Ussery, West, Wheeler, Whitson, Williams, Winningham, Wix, Wolfe, Wood, Yelton, Mr. Speaker Murray -- 97.

A motion to reconsider was tabled.

#### REQUEST TO CHANGE VOTE

MR. SPEAKER: Pursuant to Rule No. 31, I wish to express a desire to change my original stand from not voting to aye on Senate Bill No. 117 and have this statement entered in the Journal.

Rep. Tom Wheeler

#### REQUEST TO CHANGE VOTE

MR. SPEAKER: Pursuant to Rule No. 31, I wish to express a desire to change my original stand from not voting to aye on Senate Bill No. 269 and have this statement entered in the Journal.

Rep. Tom Wheeler



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REQUEST TO CHANGE VOTE

MR. SPEAKER: Pursuant to Rule No. 31, I wish to express a desire to change my original stand from not voting to aye on Senate Bill No. 456 and have this statement entered in the Journal.

Rep. Tom Wheeler

REQUEST TO CHANGE VOTE

MR. SPEAKER: Pursuant to Rule No. 31, I wish to express a desire to change my original stand from not voting to aye on Senate Bill No. 196 and have this statement entered in the Journal.

Rep. Tom Wheeler

REQUEST TO CHANGE VOTE

MR. SPEAKER: Pursuant to Rule No. 31, I wish to express a desire to change my original stand from not voting to aye on Senate Bill No. 461 and have this statement entered in the Journal.

Rep. Tom Wheeler

REQUEST TO CHANGE VOTE

MR. SPEAKER: Pursuant to Rule No. 31, I wish to express a desire to change my original stand from not voting to aye on Senate Bill No. 109 and have this statement entered in the Journal.

Rep. Tom Wheeler

REGULAR CALENDAR, CONTINUED

\*House Bill No. 1217 -- Dams -- Creates West Fork-Drake's Creek Dam and Reservoir Interstate Authority. Amends TCA, Title 12, Ch. 9; Title 64, Ch. 1.

On motion, House Bill No. 1217 was made to conform with Senate Bill No. 1367.

On motion, Senate Bill No. 1367, on same subject, was substituted for House Bill No. 1217.

Rep. Wix moved that Senate Bill No. 1367 be passed on third and final consideration.

Rep. Wix moved to amend as follows:

Amendment No. 1

Amend Senate Bill No. 1367 by deleting the third and fourth sentences of the amendatory Section 64-1-1004 in Section 1 in their entirety.

On motion, Amendment No. 1 was adopted.

Rep. Wix moved to amend as follows:

Amendment No. 2

Amend Senate Bill No. 1367 by adding after subsection (b) of Section 64-1-1002 of Section 1 the following new subsection and by relettering the subsequent subsections and any other cross references accordingly:

(c)(1) Each local governmental entity which is authorized to designate one of its members for membership on the board shall so designate such member by an appropriate resolution or ordinance.

(2) Each participating governmental entity shall adopt an appropriate resolution or ordinance which shall state the intention of the local entity to participate in the Authority; such resolution or ordinance shall also include a recitation of the participating entity's statutory authority for participation.

(3) The Authority shall not convene or conduct business until the requirements of this subsection have been met.

On motion, Amendment No. 2 was adopted.

Thereupon, Rep. Wix moved that Senate Bill No. 1367, as amended, be passed on third and final consideration, which motion prevailed by the following vote:

Ayes. . . . .	97
Noes. . . . .	0

Representatives voting aye were: Anderson, Armstrong, Bell, Bittle, Bivens, Bragg, Buck, Burnett, Byrd, Cain, Callicott, Chiles, Clark, Coffey, Collier, Copeland, Crain, Cross, Curlee, Davidson, Davis (Cocke), Davis (Gibson), Davis (Knox), DeBerry, DePriest, Dixon, Duer, Ellis, Garrett, Givens, Good, Gunnels, Halteman, Harrill, Hassell, Haun, Hawkins, Head, Henry (Putnam), Henry (Roane), Herron, Hillis, Hobbs, Holcomb, Holt, Hubbard, Huskey, Jackson, Jones, R. (Shelby), Jones, U. (Shelby), Kent, Kernell, King, Kisber, Love, McAfee, McDaniel, Miller, Moody, Moore

(Lawrence), Moore (Shelby), Naifeh, Napier, Niceley, Nuber, Odom, Peroulas, Phillips, Pinion, Pruitt, Purcell, Rhinehart, Ridgeway, Robinson (Davidson), Robinson (Hamilton), Robinson (Washington), Scruggs, Severance, Shirley, Sipes, Stallings, Starnes, Turner (Hamilton), Turner, C. (Shelby), Turner, L. (Shelby), Ussery, West, Wheeler, Whitson, Williams, Winningham, Wix, Wolfe, Wood, Yelton, Mr. Speaker Murray -- 97.

A motion to reconsider was tabled.

**House Bill No. 1082** -- Pensions and Retirement Benefits -- Allows certain teachers to transfer membership to TCRS. Amends TCA 8-35-317.

On motion, House Bill No. 1082 was made to conform with Senate Bill No. 1290.

On motion, **Senate Bill No. 1290**, on same subject, was substituted for House Bill No. 1082.

Rep. Severance moved that Senate Bill No. 1290 be passed on third and final consideration, which motion prevailed by the following vote:

Ayes. . . . .	95
Noes. . . . .	0

Representatives voting aye were: Anderson, Armstrong, Bell, Bittle, Bivens, Bragg, Buck, Burnett, Byrd, Cain, Callicott, Chiles, Clark, Coffey, Collier, Copeland, Crain, Cross, Curlee, Davidson, Davis (Cocke), Davis (Gibson), Davis (Knox), DeBerry, DePriest, Duer, Ellis, Gaia, Garrett, Givens, Good, Gunnels, Halteman, Harrill, Hassell, Haun, Hawkins, Head, Henry (Putnam), Henry (Roane), Herron, Hillis, Hobbs, Holcomb, Holt, Hubbard, Huskey, Jackson, Jones, R. (Shelby), Kent, Kernell, King, Kisber, Love, McAfee, McDaniel, Miller, Moody, Moore (Lawrence), Moore (Shelby), Naifeh, Napier, Niceley, Nuber, Odom, Peroulas, Phillips, Pinion, Purcell, Rhinehart, Ridgeway, Robinson (Davidson), Robinson (Hamilton), Robinson (Washington), Scruggs, Severance, Shirley, Sipes, Stallings, Starnes, Turner (Hamilton), Turner, C. (Shelby), Turner, L. (Shelby), Ussery, West, Wheeler, Whitson, Williams, Winningham, Wix, Wolfe, Wood, Yelton, Mr. Speaker Murray -- 95.

A motion to reconsider was tabled.

**House Bill No. 0272** -- Judges and Chancellors -- Creates commission to establish salaries for judicial secretaries. Amends TCA, Title 17, Ch. 1, Pt. 4.

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Rep. Davis (Knox) moved that House Bill No. 272 be reset to the Calendar for Monday, May 22, 1989, which motion prevailed.

**House Bill No. 0977 -- Motor Vehicles --** Revises minimum fine for overweight commercial vehicles. Amends TCA, Titles 55, 56.

Rep. Ellis moved that House Bill No. 977 be passed on third and final consideration.

Rep. Robinson (Davidson) moved to amend as follows:

**Amendment No. 1**

Amend House Bill No. 977 by deleting in its entirety all the language following the enacting clause, and by substituting instead the following language:

SECTION 1. Tennessee Code Annotated, Section 55-12-127(a), is amended by deleting the third, fourth, and fifth sentences in their entirety and inserting instead the following:

For the purpose of enforcing this portion of this Chapter, any officer of the Department of Safety or any local law enforcement officer of any city or county may, when in possession or has knowledge of an order of surrender, take possession of any suspended, revoked, or cancelled driver's license and/or vehicle registration in the possession of such driver, when such driver has failed to return such license or vehicle registration to the commissioner as provided herein. All such confiscated licenses and/or registration plates shall be immediately forwarded to the commissioner along with the completed notification of service of the order.

Upon receipt of the fee provided in subsection (b) of this section, the commissioner shall make a payment of twenty-five dollars (\$25.00) to the local law enforcement agency seizing such licenses and/or vehicle registration plates, for the remittance of an executed order of suspension, cancellation or revocation and return of all seized licenses and plates. Such fees received by the local law enforcement agency shall be deposited in the agency's operational fund account and used for the enforcement of this state's traffic laws, including but not limited to Chapters 10 and 50 of this title.

SECTION 2. Tennessee Code Annotated, Section 55-12-127(b), is amended by deleting the words, figures and

punctuation "fifty dollars (\$50.00)" and substituting instead the words, figures and punctuation "seventy-five dollars (\$75.00)".

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it.

On motion, Amendment No. 1 was adopted.

Rep. Ellis moved to amend as follows:

Amendment No. 2

Amend House Bill No. 977 by adding a new section, as follows, to be appropriately designated:

SECTION \_\_\_\_\_. When computing the time of a driver license or registration suspension, the period of suspension shall be counted from the time the license or plate is surrendered.

Rep. Ellis moved that the motion to adopt Amendment No. 2 be withdrawn, which motion prevailed.

Thereupon, Rep. Ellis moved that House Bill No. 977, as amended, be passed on third and final consideration, which motion prevailed by the following vote:

Ayes. . . . .	98
Noes. . . . .	0

Representatives voting aye were: Anderson, Armstrong, Bell, Bittle, Bivens, Bragg, Buck, Burnett, Byrd, Cain, Callicott, Chiles, Clark, Coffey, Collier, Copeland, Crain, Cross, Curlee, Davidson, Davis (Cocke), Davis (Gibson), Davis (Knox), DeBerry, DePriest, Dixon, Duer, Ellis, Gaia, Garrett, Givens, Good, Gunnels, Halteman, Harrill, Hassell, Haun, Hawkins, Head, Henry (Putnam), Henry (Roane), Herron, Hillis, Hobbs, Holcomb, Holt, Hubbard, Huskey, Jackson, Jones, R. (Shelby), Jones, U. (Shelby), Kent, Kernell, King, Kisber, Love, McAfee, McDaniel, Miller, Moody, Moore (Lawrence), Moore (Shelby), Naifeh, Napier, Niceley, Nuber, Odom, Peroulas, Phillips, Pinion, Pruitt, Purcell, Rhinehart, Ridgeway, Robinson (Davidson), Robinson (Hamilton), Robinson (Washington), Scruggs, Severance, Shirley, Sipes, Stallings, Stamps, Starnes, Turner (Hamilton), Turner, C. (Shelby), Turner, L. (Shelby), Ussery, West, Wheeler, Whitson, Williams, Winningham, Wix, Wolfe, Wood, Yelton, Mr. Speaker Murray -- 98.

A motion to reconsider was tabled.

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\*Senate Bill No. 0747 -- Education -- Enacts the "Parent-Teacher Partnership Act of 1989". Amends TCA, Title 49, Ch. 6.

Further consideration of Senate Bill No. 747, previously considered on May 8, 1989, at which time the House substituted Senate Bill No. 747 for House Bill No. 1132, adopted Amendment No. 1, made the motion to adopt Amendment No. 2, and reset the bill to the Calendar for May 11, 1989.

Rep. Turner (Hamilton) moved that Senate Bill No. 747 be passed on third and final consideration.

Rep. Rhinehart moved that the motion to adopt Amendment No. 2, previously filed, be withdrawn, which motion prevailed.

Rep. Rhinehart moved to amend as follows:

**Amendment No. 3**

Amend Senate Bill No. 747 by deleting the last two (2) sentences of the amendatory subsection (b) in Section 1 in their entirety and by substituting instead the following:

However, these meetings shall not occur during school hours of any day that is counted for purposes of meeting the one hundred eighty (180) days of classroom instruction required by Section 49-6-3004, nor shall such meetings be substituted for a day of classroom instruction.

On motion, Amendment No. 3 was adopted.

Rep. Winningham moved to amend as follows:

**Amendment No. 4**

Amend Senate Bill No. 747 by deleting the words "shall meet" in the first sentence of the amendatory subsection (b) in Section 1 and by substituting the words "may meet".

On motion, Amendment No. 4 was adopted.

Thereupon, Rep. Turner (Hamilton) moved that Senate Bill No. 747, as amended, be passed on third and final consideration, which motion prevailed by the following vote:

Ayes. . . . .	90
Noes. . . . .	6

Representatives voting aye were: Anderson, Armstrong, Bell, Bittle, Bivens, Bragg, Buck, Burnett, Byrd, Cain, Callicott, Clark, Coffey, Collier, Copeland, Crain, Cross, Curlee, Davidson, Davis

(Cocke), Davis (Gibson), Davis (Knox), DeBerry, DePriest, Dixon, Duer, Ellis, Gaia, Garrett, Givens, Good, Gunnels, Halteman, Harrill, Haun, Hawkins, Head, Henry (Roane), Herron, Hillis, Hobbs, Holcomb, Holt, Hubbard, Huskey, Jackson, Jones, R. (Shelby), Jones, U. (Shelby), Kent, Kernell, King, Kisber, Love, McDaniel, Miller, Moody, Naifeh, Napier, Niceley, Nuber, Odom, Peroulas, Phillips, Pinion, Pruitt, Purcell, Rhinehart, Ridgeway, Robinson (Davidson), Robinson (Hamilton), Robinson (Washington), Severance, Shirley, Sipes, Stallings, Stamps, Starnes, Turner (Hamilton), Turner, C. (Shelby), Turner, L. (Shelby), West, Wheeler, Whitson, Williams, Winningham, Wix, Wolfe, Wood, Yelton, Mr. Speaker Murray -- 90.

Representatives voting no were: Chiles, Hassell, McAfee, Moore (Lawrence), Scruggs, Ussery -- 6.

A motion to reconsider was tabled.

House Bill No. 0703 -- Election Laws -- Removes language which prohibits corporate contributions on any proposition submitted to vote of people. Amends TCA 2-19-132.

On motion, House Bill No. 703 was made to conform with Senate Bill No. 658.

On motion, Senate Bill No. 658, on same subject, was substituted for House Bill No. 703.

Rep. Byrd moved that Senate Bill No. 658 be passed on third and final consideration, which motion prevailed by the following vote:

Ayes. . . . .	96
Noes. . . . .	0

Representatives voting aye were: Anderson, Armstrong, Bell, Bittle, Bivens, Bragg, Buck, Burnett, Byrd, Cain, Callicott, Chiles, Clark, Coffey, Collier, Copeland, Crain, Cross, Curlee, Davidson, Davis (Cocke), Davis (Gibson), Davis (Knox), DeBerry, DePriest, Dixon, Duer, Ellis, Gaia, Garrett, Givens, Good, Gunnels, Halteman, Harrill, Hassell, Haun, Hawkins, Head, Henry (Putnam), Henry (Roane), Hillis, Hobbs, Holcomb, Holt, Hubbard, Huskey, Jackson, Jones, R. (Shelby), Jones, U. (Shelby), Kent, Kernell, King, Kisber, Love, McAfee, McDaniel, Miller, Moore (Lawrence), Moore (Shelby), Naifeh, Napier, Niceley, Nuber, Odom, Peroulas, Phillips, Pinion, Pruitt, Purcell, Rhinehart, Ridgeway, Robinson (Davidson), Robinson (Hamilton), Robinson (Washington), Scruggs, Severance, Shirley, Sipes, Stallings, Stamps, Starnes, Turner (Hamilton), Turner, C. (Shelby), Turner, L. (Shelby), Ussery, West, Wheeler, Whitson, Williams, Winningham, Wix, Wolfe, Wood, Yelton, Mr. Speaker Murray -- 96.

A motion to reconsider was tabled.

THURSDAY, MAY 11, 1989 -- FORTY-FIFTH LEGISLATIVE DAY

House Bill No. 1272 -- Optometry -- Revises operation and procedures of optometry board. Amends TCA 63-8-103, 105, 107, 110--115, 119, 120, 122, 131, 132.

Rep. Burnett moved that House Bill No. 1272 be passed on third and final consideration.

Rep. Starnes moved to amend as follows:

**Amendment No. 1**

Amend House Bill No. 1272 by deleting the language following the enacting clause and substituting the following:

SECTION 1. Tennessee Code Annotated, Section 63-8-103, is amended by deleting such section in its entirety and substituting instead the following:

**Board Members and terms.**

(a) A board is created which shall be known and designated as the board of optometry. This board shall consist of five (5) members, all of whom shall be licensed to practice the full scope of optometry, and be residents of Tennessee and actively practicing optometrists in Tennessee for a period of five (5) or more years immediately preceding their appointment; provided, however, that no person shall be eligible to appointment who is in any way connected with or has any financial interest in any optometric school or college, or the optical or optometric department of any institution of learning, or the wholesale optical or optometric supply business.

(b) The present board members shall serve out their respective terms. Thereafter, on a staggered basis, members shall be appointed for five (5) year terms. No member shall serve for more than ten (10) consecutive years.

SECTION 2. Tennessee Code Annotated, Section 63-8-105, is amended by deleting such section in its entirety and substituting instead the following:

Appointments to the board. - The members on the board shall be appointed by the governor. The Tennessee Optometric Association shall submit to the governor three (3) names for consideration for each appointment. The governor may appoint a qualified person from the names submitted. A member shall continue to serve until his successor is appointed. A vacancy created by the death, resignation, or removal of a member shall be temporarily filled by the board



after thirty (30) days from the names submitted by the Tennessee Optometric Association to the governor to serve until the governor makes the appointment. Appointments shall be for the remainder of unexpired terms.

SECTION 3. Tennessee Code Annotated, Section 63-8-107, is amended by deleting such section in its entirety and substituting instead the following:

Officers of board - Meetings. - The board shall choose one (1) of its members as chairman, one (1) as vice chairman, and one (1) as secretary-treasurer, annually. The board may meet, in its discretion, at such times and places as it may deem proper, for the examination of applicants who may wish to practice optometry in this state, and for the transaction of business. The board shall offer the standard examination for the issuance of the certificate of fitness at least twice a year.

SECTION 4. Tennessee Code Annotated, Section 63-8-110, is amended by deleting such section in its entirety and substituting instead the following:

Compensation of board members. - The members of the board shall be paid their expenses including mileage, hotel expenses, meals, and the sum of fifty dollars (\$50.00) per diem when actually engaged in the discharge of their official duties; provided, however, each member shall be reimbursed for travel expenses in accordance with the provisions of the comprehensive travel regulations as promulgated by the department of finance and administration and approved by the attorney general.

SECTION 5. Tennessee Code Annotated, Section 63-8-111, is amended by deleting such section in its entirety and substituting instead the following:

Administrative support. - The board shall receive administrative support from the division.

SECTION 6. Tennessee Code Annotated, Section 63-8-112, is amended by deleting such section in its entirety and substituting instead the following:

Powers of board and Examinations. - The board is given authority to:

(1) Make rules and regulations and policies and procedures not inconsistent with the laws of this state, for the proper performance of its

duties to carry out the purposes, and to enforce the provisions of this chapter.

(2) Provide a standard of efficiency as to the moral, educational and experience qualifications and fitness of all persons who desire to practice optometry in Tennessee, in conformity with the provisions of this chapter.

(3) Conduct both written or oral examinations and written or oral clinical examinations of such character as to thoroughly test the qualifications of applicants, and refuse to grant a certification to any person who, in its discretion, is found deficient. The board may prepare its own examinations, contract for the preparation of examinations or questions, and may select appropriate standardized examinations, such as that of the national board of examiners in optometry and the international association of board of examiners in optometry. The board is authorized to pay any expenses involved with conducting the examinations including expenses involved with contracting with persons who participate in the examination process. The board shall not issue a certificate to any person beyond the scope of that person's education and training as determined by the board.

(4)(A) To certify optometrists to use topically applied drops, ointments or creams, including the administration of benadryl, epinephrine or equivalent medication to counteract anaphylaxis or anaphylactic reaction, for treatment as provided in Tennessee Code Annotated, Section 63-8-102(12)(E). An optometrist may use or prescribe topical steroids for not more than seven (7) calendar days from the onset of treatment. No optometrist shall be certified to prescribe or use topically applied drops, ointments or creams, including the administration of benadryl, epinephrine or equivalent medication to counteract anaphylaxis or anaphylactic reaction, for treatment purposes in the practice of optometry unless and until he meets all of the following:

(i) The optometrist has been certified by the board to utilize diagnostic pharmaceutical agents;

(ii) The optometrist has completed at least one hundred fifty (150) classroom hours

and at least forty (40) hours of clinical experience dealing with diagnosis and treatment of ocular disease, including the use of pharmaceutical agents; and

(iii) The optometrist has taken and successfully passed the examination administered by the therapeutic certification panel.

(B) The board shall require each optometrist certified to use topically applied drops, ointments or creams, including the administration of benadryl, epinephrine or equivalent medication to counteract anaphylaxis or anaphylactic reaction, for treatment purposes in the practice of optometry to complete a minimum of five (5) hours of continuing education annually on diagnosis, treatment and use of pharmaceutical agents in the practice of optometry.

(C) The board shall provide the board of pharmacy semi-annually with a list of optometrists so certified pursuant to this section, and shall provide each certified optometrist with an application certificate which shall be prominently displayed in his professional office.

(5) Investigate possible violations of and enforce the provisions of this chapter.

(6) Determine the members to attend the meetings of the persons responsible for examining and licensing optometrists in other jurisdictions and other meetings or conventions which will assist the board in performing its duties. Members shall be paid their expenses in attending such meetings in accordance with state travel regulations.

(7) Seek injunctions to prevent violations of this chapter. Such actions shall be brought in the chancery court of Davidson County or the chancery court of the county in which the defendant resides or does business. Such actions may be brought by ten (10) or more licensed optometrists or a state association of optometrists as well as by the board.

(8) Issue, in its discretion, a "certification of identification," upon the payment of a fee as set by the board, to a legal, ethical, and competent practitioner of optometry

in this state who may desire to become licensed in another state.

(9) Issue, in its discretion, a duplicate certificate, in event the original is lost or destroyed. The person entitled thereto must make written application to the board for a duplicate, under affidavit setting forth that such certificate was lost or destroyed, and the circumstances under which loss or destruction occurred. The fee for issuing the duplicate shall be set by the board and must accompany the application. Should the original subsequently be found, it must be forwarded immediately to the secretary-treasurer and not used by the person to whom issued originally or by any other person.

(10) Set information requirements for ocular prescriptions.

SECTION 7. Tennessee Code Annotated, Section 63-8-113, is amended by deleting such section in its entirety and substituting instead the following:

Unlawful practices and advertising.

(a) It shall be unlawful for any person not duly licensed in accordance with this chapter to:

(1) Engage in the practice of optometry;

(2) Hold himself out as a practitioner of optometry;

(3) Attempt by any means whatsoever to determine the kind or power of ophthalmic materials needed by any person to remedy or relieve defects of vision or muscular anomalies;

(4) Hold himself out as a registered or licensed optometrist;

(5) Hold himself out as being able to examine the human eye for the purpose of fitting or prescribing ophthalmic materials;

(6) Test the vision of any person by any means for the purpose of fitting that person with or prescribing ophthalmic materials;

(7) Display a sign or symbol which leads the public to believe that such person is an optometrist;

(8) Make measurements involving the eyes or the optical requirement thereof for the purpose of prescribing ophthalmic materials;

(9) Fill an order or prescription for ophthalmic materials; or

(10) Sell or dispense ophthalmic materials.

(b) It shall be unlawful for any person, including optometrists licensed under this chapter, to:

(1) Impersonate a licensed optometrist;

(2) Practice optometry under a false or assumed name;

(3) Peddle, sell or render optometric services from door to door;

(4) Canvass or solicit ophthalmic materials or optometric services in person or by agents, except as authorized by the board;

(5) Practice optometry after his certificate of fitness or registration has been revoked or during suspension of same, or after failing to pay the annual renewal fee, or after failing to submit satisfactory evidence of having met minimum continuing education requirements as set by the board;

(6) Offer optometric services or ophthalmic materials as a prize, premium or gift, separately or in combination with other merchandise or services except as authorized by the board;

(7) Discount optometric services contingent upon the purchase of ophthalmic materials or to otherwise tie-in the performing of optometric services with the purchase of ophthalmic materials.

(c) It shall be unlawful for any licensed optometrist to:

(1) Advertise optometric services or ophthalmic materials except as provided in subsection (d);

(2) Practice optometry as an employee of any person or business or organization not engaged primarily in health care delivery;

(3) Practice optometry under a name other than his or her own unless board approved;

(4) Appoint agents or other persons to take orders for optometric services or ophthalmic materials;

(5) Split or share fees with any person or organization in return for solicitation of customers by that person or organization;

(6) Practice or offer to practice optometry in, or in conjunction with, any retail store or other commercial establishment where merchandise is displayed or offered for sale; provided, however, that any licensed, registered optometrist practicing in premises of such type prior to April 17, 1967, shall be permitted to continue his independent practice in his present location, or in such new location to which the retail store or other commercial establishment might move, but when any such optometrist vacates any such premises no other optometrist shall be permitted to practice in such vacated premises; or

(7) Engage in practice in any temporary or mobile office except as authorized by the board, or any office which does not have the appropriate instrumentation for diagnosis and treatment for the practice of optometry as established by the board.

(d)(1) Optometrist may advertise ophthalmic materials, including prices. All advertising by persons licensed to practice optometry in this state, regardless of the media employed or such advertising, shall be subject to the requirements and limitations of this section, as follows:

(A) No person shall advertise optometric services or ophthalmic materials by statements which are fraudulent, deceptive or likely to mislead the public, such as bait and switch tactics;

(B) No person shall advertise or infer through advertising that he or she has superior professional skills or competence, except board certification may be listed;

(C) No person shall advertise to guarantee optometric services or use words of similar import;

(D) All advertising shall contain the optometrist's name and the designation "O.D." or "Doctor of Optometry", or a professional corporation name so long as such corporate name does not permit or imply action, advertising, services, or practices forbidden by this chapter or rules and regulations of the board, and such corporate name has been approved in advance by the board as being in compliance with the foregoing; and

(E) Optometrists shall not advertise routine optometric services such as eye examinations except in accordance with regulations promulgated by the board.

(2) The board is given authority to place reasonable time, place and manner restrictions on the advertising of optometric services if it finds that to be in the public interest. Further, the board may require that any advertising disclose any information necessary to protect the public, including whether specialists are certified.

SECTION 8. Tennessee Code Annotated, Section 63-8-114, is amended by deleting such section in its entirety and substituting instead the following:

Exemptions. Nothing in this chapter shall be construed:

(1) As applying to medical doctors and doctors of osteopathy lawfully entitled to practice their profession in this state;

(2) As applying to optometric faculty licensed in another state and employed full-time by an accredited school or college of optometry in the state of Tennessee, provided that the practice of the faculty member is limited to and is incidental to the faculty member's employment at the accredited school or college of optometry in the state of Tennessee. Optometry faculty members are limited to the scope of their license unless they have passed an examination or a standardized examination which has been utilized by the therapeutic certification panel. Optometric faculty members may not practice beyond the scope of a fully certified Tennessee optometrist. This shall not be construed as a grant of permission for the optometric faculty member to engage in the private practice of optometry in any form. It shall be the responsibility of the dean of the

school or college of optometry to apply to the board for an exemption for each such faculty member;

(3) To prevent persons, firms and corporations from selling ophthalmic lenses or ophthalmic products at wholesale, in a permanently established place of business on prescription to those who are legally qualified to prescribe them, nor to prevent an optical mechanic from doing the merely mechanical work upon such lenses or frames or fitting thereof, nor to prevent the wholesale house from selling ready-to-wear eyeglasses or spectacles as merchandise, at wholesale, to merchants for purpose of resale as merchandise, when neither the wholesaler nor purchaser to whom he sells practices optometry;

(4) To prevent a retail merchant from selling ready to wear spectacles or eyeglasses if such merchant does not assist the customer in fitting or selecting such products or otherwise engage in the practice of optometry. However, contact lenses may not be ordered, sold, or dispensed by a retail merchant; or

(5) To prevent licensed dispensing opticians from filling prescriptions or orders for ophthalmic materials within the scope of their lawful practice.

SECTION 9. Tennessee Code Annotated, Section 63-8-115, is amended by deleting such section in its entirety and substituting instead the following:

Qualifications of applicants. -

(a) Every person who desires to practice optometry in this state shall submit an application to the board. Each applicant must show sufficient information for the board to determine that the applicant meets all of the following requirements:

(1) The applicant is over twenty-one (21) years of age;

(2) The applicant is of good moral character;

(3) The applicant is a graduate of a school or college of optometry accredited by a regional or professional accreditation organization which is recognized or approved by the National Commission on Accrediting or the United States



Commissioner of Education, and in good standing, as determined by the board; and

(4) The applicant has passed examinations and met the requirements established by the board for the scope of practice desired.

(b) An applicant who is licensed to practice optometry in a state other than Tennessee, in addition to the foregoing requirements, must show that he is an optometrist in good standing in such state. If the applicant has been disciplined, he must fully set forth the circumstances surrounding the discipline, so that the board may determine therefrom his character and fitness.

(c) All applications to take examinations shall be accompanied by nonrefundable fees to defray the cost of preparing and conducting the examination and the application process as determined by the board.

SECTION 10. Tennessee Code Annotated, Section 63-8-119, is amended by deleting such section in its entirety and substituting instead the following:

Annual registration - Continuing education. -

(a) Every registered optometrist who desires to continue to practice in this state shall pay an annual renewal fee to defray the cost of regulating optometry and shall furnish satisfactory evidence of having met minimum continuing education requirements, as set by the board. The board may, in its sole discretion, waive the annual educational requirement and/or fee in cases of certified illness, disability, other undue hardship, or retirement. The board shall annually arrange for, or approve, a program or programs of continuing optometric education held in this state sufficient to meet the minimum annual educational requirements for each level of practice. The board is authorized to use such portion of the annual renewal fees as is deemed necessary or proper to provide for continuing optometric educational programs. The board is authorized to adopt such rules and regulations as it may deem necessary or appropriate for establishing an approved program or programs of continuing optometric education, including, but not limited to, those prescribing the substantive content of all course or other forms of optometric education which will satisfy the annual educational requirement. The board shall issue annual renewal certificates to optometrists who pay their annual renewal fees and furnish satisfactory evidence of having met minimum continuing education

requirements. The board is authorized to promulgate rules and regulations providing for the automatic revocation of the certificates of optometrists failing to meet the terms of this section. After hearing, the board may provide conditions for the reinstatement of the certificates. These conditions may include, but are not limited to, the payment of delinquent fees, the payment of a civil penalty, the attendance or completion of courses of study, the passage of examinations, the passage of physical or mental examinations, and the treatment of any physical or mental ailments. After hearing, the board may refuse to reinstate the certificates revoked under this section upon any of the grounds set forth in Tennessee Code Annotated, Section 63-8-120, as amended.

(b) The board may formulate a policy which would allow retirees to practice where their services are needed on a temporary basis.

SECTION 11. Tennessee Code Annotated, Section 63-8-120, is amended by deleting such section in its entirety and substituting instead the following:

Discipline of certificate holders.-

(a) The board may refuse to issue an annual renewal certificate, may suspend or revoke any certificate issued by it, may censure, may reprimand, may place on probation, and may assess a civil penalty up to one thousand dollars (\$1,000) for each separate violation whenever the certificate holder shall be found guilty of any of the following acts or offenses:

- (1) Fraud in procuring a license;
- (2) Immoral, unprofessional or dishonorable conduct;
- (3) Habitual intoxication or addiction or misuse of drugs;
- (4) Conviction of a felony;
- (5) Use of untruthful or improbable statements or flamboyant or extravagant claims concerning such licensee's professional excellence or abilities;
- (6) Practicing under any other name than his or her own unless board approved;
- (7) Failure to renew annual certificate;

(8) Solicitation of optometric services, or ophthalmic materials in person or by agent by any means other than advertising authorized by this chapter;

(9) Gross malpractice, or a pattern of continued or repeated malpractice, ignorance, negligence or incompetence in the practice of optometry;

(10) Practice beyond the scope of the certificate;

(11) Furnishing spectacle prescriptions which do not at least meet the informational requirements established by the board; or refusing to furnish a copy of his or her spectacle prescription at no additional costs if requested by the patient;

(12) Advertising of optometric services or ophthalmic materials in any manner other than permitted by this chapter or rule and regulation of the board;

(13) Engaging in the practice of optometry as an employee of any person, firm, or corporation not engaged primarily in health care delivery;

(14) Division of fees or agreeing to split or divide the fees received for professional services with any person for bringing or referring a patient;

(15) Peddle or sell ophthalmic materials as to render or attempt to render optometric services from house to house or door to door. This shall not prohibit, however, an optometrist from attending, prescribing, and furnishing ophthalmic materials to a patient who, by reason of illness or physical or mental infirmity, is confined to his or her place of abode or in a hospital or other institution;

(16) Signing or making in one's professional capacity any certificate known to be false at the time it is signed or made;

(17) Committing any act which is made unlawfully by Section 14; or

(18) Committing any act contrary to the provisions of this chapter or the rules and regulations of the board.

(b) The board may set guidelines for the implementation of the discipline of certificate holders.

(c) The board may require a mental or physical examination of a certificate holder which the board believes may be a threat to himself or the public, or incapable of practicing optometry in accordance with the provisions of this chapter and the standards established by the board.

(d) The board may provide conditions upon optometrists continuing to practice or upon the reinstatement of certificates. These conditions may include, but are not limited to, the payment of civil penalties, the attendance or completion of courses of study, the passage of examinations, the passage of physical or mental examinations, and the treatment of any physical or mental ailments.

SECTION 12. Tennessee Code Annotated, Section 63-8-122, is amended by deleting such section in its entirety and substituting instead the following:

Penalties. - Any person violating any of the provisions of this chapter shall be guilty of a misdemeanor, and shall, for each offense, be fined not less than one thousand dollars (\$1000) and not more than four thousand dollars (\$4000) or imprisoned in the county jail for not more than eleven (11) months and twenty-nine (29) days, or both.

SECTION 13. The provisions of this law shall be liberally construed to effect its purpose, and insofar as the provisions of this law may be inconsistent with the provisions of any other law, the provisions of this law shall be controlling.

SECTION 14. The provisions of this act are declared severable. If any word, phrase, sentence, paragraph, section, or part is declared unconstitutional or void, then the remainder shall remain in full force and effect, it being the legislative intent that this act would have been adopted even if the unconstitutional or void matter had not been included. If the implementation of any of the provisions of this act is partially preempted by federal law or regulation, then the provisions shall continue to be implemented to the extent they have not been preempted.

SECTION 15. This act shall take effect upon becoming a law, the public welfare requiring it.

On motion, Amendment No. 1 was adopted.

Rep. Starnes moved to amend as follows:

Amendment No. 2

AMEND House Bill No. 1272 by deleting from subdivision (3) of the amendatory language of Section 6, as amended, the phrase "or oral" where it appears between the words "written" and "examinations".

AND FURTHER AMEND by deleting the word "Fill" in subdivision (9) of subsection (a) of the amendatory language of Section 7, as amended, and by substituting instead the words and punctuation "Unless otherwise authorized by law, fill"; and by deleting the word "Sell" in subdivision (10) of such subsection, and by substituting instead the words and punctuation "Unless otherwise authorized by law, sell".

AND FURTHER AMEND by adding the following language at the end of subsection (b)(4) of the amendatory language of Section 7, as amended:

provided that advertising in accordance with this chapter and the rules and regulations of the board is not solicitation;

AND FURTHER AMEND by deleting from subdivision (5) of the amendatory language of Section 8, as amended, the words "filling prescriptions or orders for", and by substituting instead the words "preparing, adapting and dispensing".

AND FURTHER AMEND by deleting from subsection (a)(11) of the amendatory language of Section 11, as amended, the words "if requested by the patient", and by substituting instead the words "to the patient at the end of the examination".

On motion, Amendment No. 2 was adopted.

Thereupon, Rep. Burnett moved that House Bill No. 1272, as amended, be passed on third and final consideration, which motion prevailed by the following vote:

Ayes. . . . .	97
Noes. . . . .	0

Representatives voting aye were: Anderson, Armstrong, Bell, Bittle, Bivens, Bragg, Buck, Burnett, Byrd, Cain, Callicott, Chiles,

Coffey, Collier, Copeland, Crain, Cross, Curlee, Davidson, Davis (Cocke), Davis (Gibson), Davis (Knox), DeBerry, DePriest, Dixon, Duer, Ellis, Gaia, Garrett, Givens, Good, Gunnels, Halteman, Harrill, Hassell, Haun, Hawkins, Head, Henry (Putnam), Henry (Roane), Herron, Hillis, Hobbs, Holcomb, Holt, Hubbard, Huskey, Jackson, Jones, R. (Shelby), Jones, U. (Shelby), Kent, Kernell, King, Kisber, Love, McAfee, McDaniel, Miller, Moody, Moore (Lawrence), Moore (Shelby), Naifeh, Napier, Niceley, Nuber, Odom, Peroulas, Phillips, Pinion, Pruitt, Purcell, Rhinehart, Ridgeway, Robinson (Davidson), Robinson (Hamilton), Robinson (Washington), Scruggs, Severance, Shirley, Sipes, Stallings, Stamps, Starnes, Turner (Hamilton), Turner, C. (Shelby), Turner, L. (Shelby), Ussery, West, Wheeler, Whitson, Williams, Winningham, Wix, Wolfe, Wood, Yelton, Mr. Speaker Murray -- 97.

A motion to reconsider was tabled.

\*House Bill No. 0122 -- Highways, Roads and Bridges -- Enacts "Transportation Act of 1989". Amends TCA, Titles 54, 55, 67.

Rep. Duer moved that House Bill No. 122 be passed on third and final consideration.

Rep. Robinson (Davidson) moved to amend as follows:

Amendment No. 1

Amend House Bill No. 122 by deleting Section 2 and by substituting instead the following:

Section 2. Tennessee Code Annotated, Section 54-13-317, is amended by deleting the section in its entirety and by substituting instead the following:

(a) Except as otherwise provided pursuant to subsection (b), no person shall charge as ferriage on any stream on any highway included in the state highway system or maintained in whole or part by the department of transportation, more than the rate fixed herein:

Automobile and passengers	\$2.00
Person, each, on foot	.50
Truck or bus (one (1) ton capacity and under) and driver	2.00
Truck or bus (one (1) ton capacity and over) and driver	4.00
Automobile trailer	1.50
Truck trailer or bus trailer	3.00
Motorcycle and driver	2.00

(b) Upon application submitted to the department of transportation requesting a waiver of the maximum

rate fixed within subsection (a), the commissioner may fix a maximum rate in excess of that fixed within subsection (a). Any maximum rate fixed by the commissioner pursuant to this subsection shall be promulgated as a rule in accordance with the provisions of the Uniform Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5. In promulgating any such rule, the commissioner shall give due consideration:

(1) To the public's need for adequate and efficient ferriage service at a reasonable and prudent cost, and

(2) To the ferry operator's need of revenues sufficient to enable the operator, using honest, economical, and efficient management, to provide such services and to earn a reasonable profit.

On motion, Amendment No. 1 was adopted.

Thereupon, Rep. Duer moved that House Bill No. 122, as amended, be passed on third and final consideration, which motion prevailed by the following vote:

Ayes. . . . .	97
Noes. . . . .	0

Representatives voting aye were: Anderson, Armstrong, Bell, Bittle, Bivens, Bragg, Buck, Burnett, Byrd, Cain, Callicott, Chiles, Clark, Coffey, Collier, Copeland, Crain, Cross, Curlee, Davidson, Davis (Cocke), Davis (Gibson), Davis (Knox), DeBerry, DePriest, Dixon, Duer, Ellis, Gaia, Garrett, Givens, Good, Halteman, Harrill, Hassell, Haun, Hawkins, Head, Henry (Putnam), Henry (Roane), Herron, Hillis, Hobbs, Holcomb, Holt, Hubbard, Huskey, Jackson, Jones, R. (Shelby), Jones, U. (Shelby), Kent, Kernell, King, Kisber, Love, McAfee, McDaniel, Miller, Moody, Moore (Lawrence), Moore (Shelby), Naifeh, Napier, Niceley, Nuber, Odom, Peroulas, Phillips, Pinion, Pruitt, Purcell, Rhinehart, Ridgeway, Robinson (Davidson), Robinson (Hamilton), Robinson (Washington), Scruggs, Severance, Shirley, Sipes, Stallings, Stamps, Starnes, Turner (Hamilton), Turner, C. (Shelby), Turner, L. (Shelby), Ussery, West, Wheeler, Whitson, Williams, Winningham, Wix, Wolfe, Wood, Yelton, Mr. Speaker Murray -- 97.

A motion to reconsider was tabled.

\*House Bill No. 0007 -- Motor Vehicles -- Restricts certain freight motor vehicles from traveling on certain municipal streets or alleys in certain circumstances.

On motion, House Bill No. 7 was made to conform with Senate Bill No. 98.

On motion, Senate Bill No. 98, on same subject, was substituted for House Bill No. 7.

Rep. Pruitt moved that Senate Bill No. 98 be passed on third and final consideration.

Rep. Robinson (Davidson) moved to amend as follows:

**Amendment No. 1**

Amend Senate Bill No. 98 by adding the following language at the end of Section 1:

The provisions of this act shall only apply in any county having a population of not less than four hundred seventy thousand (470,000) nor more than five hundred thousand (500,000), according to the 1980 federal census or any subsequent federal census.

On motion, Amendment No. 1 was adopted.

Thereupon, Rep. Pruitt moved that Senate Bill No. 98, as amended, be passed on third and final consideration, which motion prevailed by the following vote:

Ayes	78
Noes	13
Present and not voting	4

Representatives voting aye were: Anderson, Armstrong, Bell, Bivens, Bragg, Burnett, Byrd, Cain, Chiles, Clark, Collier, Copeland, Cross, Curlee, Davidson, Davis (Cocke), Davis (Gibson), Davis (Knox), DeBerry, DePriest, Duer, Ellis, Gaia, Garrett, Givens, Good, Halteman, Hassell, Henry (Putnam), Henry (Roane), Herron, Hillis, Hobbs, Holt, Hubbard, Huskey, Jackson, Jones, R. (Shelby), Jones, U. (Shelby), Kent, Kernell, King, Kisber, Love, McAfee, McDaniel, Moody, Moore (Lawrence), Moore (Shelby), Naifeh, Nuber, Odom, Peroulas, Phillips, Pinion, Pruitt, Purcell, Rhinehart, Robinson (Davidson), Robinson (Hamilton), Robinson (Washington), Scruggs, Shirley, Stallings, Starnes, Turner (Hamilton), Turner, C. (Shelby), Turner, L. (Shelby), Ussery, West, Wheeler, Whitson, Williams, Winningham, Wix, Wolfe, Wood, Mr. Speaker Murray -- 78.

Representatives voting no were: Bittle, Buck, Callicott, Coffey, Crain, Gunnels, Harrill, Haun, Hawkins, Niceley, Severance, Sipes, Stamps -- 13.



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Representatives present and not voting were: Head, Holcomb, Napier, Yelton -- 4.

A motion to reconsider was tabled.

House Bill No. 0875 -- Annexation -- Includes Memphis and Nashville in annexation ordinance. Amends TCA, Title 6, Ch. 51.

Rep. Shirley moved that House Bill No. 875 be reset to the Calendar for Monday, May 22, 1989, which motion prevailed.

House Bill No. 0618 -- Garnishments and Executions -- Revises certain garnishment procedures. Amends TCA, Titles 19, 26.

Rep. Purcell moved that House Bill No. 618 be passed on third and final consideration.

Rep. Buck moved to amend as follows:

Amendment No. 1

Amend House Bill No. 618 by deleting Section 5 in its entirety and renumbering the subsequent section accordingly.

On motion, Amendment No. 1 was adopted.

Thereupon, Rep. Purcell moved that House Bill No. 618, as amended, be passed on third and final consideration, which motion prevailed by the following vote:

Ayes. . . . .	96
Noes. . . . .	0

Representatives voting aye were: Anderson, Armstrong, Bell, Bittle, Bivens, Bragg, Buck, Burnett, Byrd, Cain, Callicott, Chiles, Clark, Coffey, Collier, Copeland, Crain, Cross, Curlee, Davidson, Davis (Cocke), Davis (Gibson), Davis (Knox), DeBerry, DePriest, Dixon, Duer, Ellis, Gaia, Givens, Good, Gunnels, Halteman, Harrill, Hassell, Haun, Hawkins, Head, Henry (Putnam), Henry (Roane), Herron, Hillis, Hobbs, Holcomb, Holt, Hubbard, Huskey, Jackson, Jones, R. (Shelby), Jones, U. (Shelby), Kent, Kernell, King, Kisber, Love, McAfee, McDaniel, Moody, Moore (Lawrence), Moore (Shelby), Naifeh, Napier, Niceley, Nuber, Odom, Peroulas, Phillips, Pinion, Pruitt, Purcell, Rhinehart, Ridgeway, Robinson (Davidson), Robinson (Hamilton), Robinson (Washington), Scruggs, Severance, Shirley, Sipes, Stallings, Stamps, Starnes, Turner (Hamilton), Turner, C. (Shelby), Turner, L. (Shelby), Ussery, West, Wheeler, Whitson, Williams, Winningham, Wix, Wolfe, Wood, Yelton, Mr. Speaker Murray -- 96.

A motion to reconsider was tabled.

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REQUEST TO CHANGE VOTE

MR. SPEAKER: Pursuant to Rule No. 31, I wish to express a desire to change my original stand from aye to no on Senate Bill No. 658 and have this statement entered in the Journal.

Rep. Gary Odom

REQUEST TO CHANGE VOTE

MR. SPEAKER: Pursuant to Rule No. 31, I wish to express a desire to change my original stand from aye to no on Senate Bill No. 658 and have this statement entered in the Journal.

Rep. Randall Stamps

REQUEST TO CHANGE VOTE

MR. SPEAKER: Pursuant to Rule No. 31, I wish to express a desire to change my original stand from aye to no on Senate Bill No. 658 and have this statement entered in the Journal.

Rep. Beth Halteman

REGULAR CALENDAR, CONTINUED

House Bill No. 0736 -- Courts, General Sessions -- Clarifies provisions concerning funding and qualifications. Amends TCA, Title 16, Ch. 15, Pt. 50.

Rep. Purcell moved that House Bill No. 736 be passed on third and final consideration.

Rep. Buck moved to amend as follows:

Amendment No. 1

Amend House Bill No. 736 by deleting Section 5 in its entirety and by substituting instead the following:

Section 5. Tennessee Code Annotated, Section 16-15-5006(a), is amended by deleting the word "are authorized to impose a litigation tax on each case filed in the general sessions court of such county." and by substituting instead the words "and any subsequent federal census, are authorized to impose a local litigation tax on each civil case filed in general sessions court, or in a court where the general sessions judge serves as judge, except juvenile court, and are authorized to impose a local

litigation tax on each criminal conviction in general sessions court."

Tennessee Code Annotated, Section 16-15-5006(a), is amended by deleting the last sentence of the subsection and by substituting instead the following:

The litigation tax may be effective on or after July 1, 1990, and may be in any amount up to six dollars (\$6.00) per case. If during any subsequent fiscal year, the amount of revenue generated by the local tax enacted pursuant to this section does not sufficiently fund the increase in the general sessions judge's (or judges') compensation mandated by this part, the local litigation tax may be raised to an amount in excess of six dollars (\$6.00) necessary to fund the increase mandated by this part.

Tennessee Code Annotated, Section 16-15-5006(b), is amended by deleting the words and figures "September 1, 1990" and substituting instead the words and figures "July 1, 1990".

On motion, Amendment No. 1 was adopted.

Rep. Cross moved to amend as follows:

Amendment No. 2

Amend House Bill No. 736 by adding the following new section immediately preceding the last section and by renumbering the subsequent section accordingly:

Section \_\_\_\_\_. Tennessee Code Annotated, Section 16-15-5005(a), is amended by inserting the following between the second and third sentences:

Provided, further, any person who has served in the office of general sessions judge for a total of eight (8) years prior to August 1, 1990, who is not a licensed attorney may seek election to such position and serve as a general sessions judge.

Rep. Purcell moved that Amendment No. 2 be tabled, which motion failed by the following vote:

Ayes. . . . .	44
Noes. . . . .	46
Present and not voting. . . . .	2

Representatives voting aye were: Anderson, Armstrong, Bell, Bragg, Buck, Burnett, Clark, Collier, Davis (Knox), DeBerry, Dixon,

Duer, Ellis, Gaia, Good, Henry (Putnam), Herron, Hillis, Holcomb, Holt, Jones, R. (Shelby), Jones, U. (Shelby), Kernell, King, Kisber, Love, Moody, Naifeh, Napier, Odom, Phillips, Pruitt, Purcell, Rhinehart, Robinson (Hamilton), Robinson (Washington), Stallings, Starnes, Turner (Hamilton), Turner, C. (Shelby), Turner, L. (Shelby), West, Williams, Mr. Speaker Murray -- 44.

Representatives voting no were: Bittle, Bivens, Byrd, Callicott, Chiles, Crain, Cross, Curlee, Davidson, Davis (Cocke), Davis (Gibson), Givens, Gunnels, Halteman, Harrill, Hassell, Haun, Hawkins, Head, Henry (Roane), Hobbs, Hubbard, Huskey, Kent, McAfee, McDaniel, Miller, Moore (Lawrence), Moore (Shelby), Niceley, Nuber, Peroulas, Pinion, Ridgeway, Scruggs, Severance, Shirley, Sipes, Stamps, Ussery, Wheeler, Whitson, Winningham, Wix, Wolfe, Wood -- 46.

Representatives present and not voting were: Cain, Yelton -- 2.

Rep. Purcell moved that House Bill No. 736 be re-referred to the Calendar and Rules Committee, which motion prevailed.

**House Bill No. 1248 -- Education --** Provides for contingent requirements for county school board members. Amends TCA, Title 49, Ch. 2.

On motion, House Bill No. 1248 was made to conform with Senate Bill No. 24.

On motion, Senate Bill No. 24, on same subject, was substituted for House Bill No. 1248.

Rep. Peroulas moved that Senate Bill No. 24 be passed on third and final consideration.

Rep. Davidson moved to amend as follows:

**Amendment No. 1**

Amend Senate Bill No. 24 by adding the following new sentence at the end of the amendatory language of Section 1:

Provided, further, that any person serving on a school board as of the effective date of this act shall be allowed to continue to serve and to seek re-election or reappointment to one (1) additional term even though such person may not have graduated from high school.

On motion, Amendment No. 1 was adopted.

Rep. Love moved the previous question, which motion failed by the following vote:

Ayes. . . . .	51
Noes. . . . .	40
Present and not voting. . . . .	3

Representatives voting aye were: Anderson, Armstrong, Bell, Bittle, Burnett, Cain, Callicott, Clark, Cross, Curlee, Davidson, Davis (Cocke), Davis (Gibson), Davis (Knox), DePriest, Duer, Ellis, Gaia, Good, Gunnels, Halteman, Hassell, Henry (Roane), Herron, Hobbs, Huskey, Kisber, Love, McAfee, Miller, Moore (Lawrence), Napier, Nuber, Odom, Peroulas, Phillips, Pinion, Pruitt, Rhinehart, Ridgeway, Robinson (Davidson), Robinson (Hamilton), Scruggs, Stallings, Stamps, Turner, C. (Shelby), West, Wheeler, Whitson, Williams, Wix -- 51.

Representatives voting no were: Bivens, Buck, Byrd, Coffey, Collier, Copeland, Crain, Dixon, Givens, Harrill, Haun, Hawkins, Head, Henry (Putnam), Hillis, Holcomb, Holt, Hubbard, Jackson, Jones, R. (Shelby), Jones, U. (Shelby), Kent, Kernell, King, McDaniel, Moody, Moore (Shelby), Niceley, Robinson (Washington), Severance, Shirley, Sipes, Starnes, Turner (Hamilton), Turner, L. (Shelby), Ussery, Wolfe, Wood, Yelton, Mr. Speaker Murray -- 40.

Representatives present and not voting were: Bragg, Naifeh, Purcell -- 3.

Rep. Rhinehart moved the previous question, which motion prevailed by the following vote:

Ayes. . . . .	70
Noes. . . . .	18
Present and not voting. . . . .	3

Representatives voting aye were: Anderson, Bell, Bittle, Bivens, Bragg, Buck, Burnett, Byrd, Cain, Clark, Coffey, Collier, Crain, Cross, Curlee, Davidson, Davis (Cocke), Davis (Gibson), Davis (Knox), DePriest, Duer, Gaia, Good, Gunnels, Halteman, Hassell, Haun, Head, Henry (Putnam), Henry (Roane), Hobbs, Holcomb, Holt, Hubbard, Huskey, Jackson, Kent, Kisber, Love, McAfee, McDaniel, Miller, Moore (Lawrence), Moore (Shelby), Napier, Niceley, Nuber, Odom, Peroulas, Phillips, Pinion, Rhinehart, Ridgeway, Robinson (Davidson), Robinson (Hamilton), Robinson (Washington), Scruggs, Severance, Sipes, Stallings, Stamps, Starnes, Turner (Hamilton), Turner, C. (Shelby), West, Wheeler, Whitson, Williams, Winningham, Wix -- 70.

Representatives voting no were: Armstrong, Callicott, DeBerry, Dixon, Ellis, Givens, Harrill, Hawkins, Herron, Hillis, Jones, R. (Shelby), Jones, U. (Shelby), Shirley, Turner, L. (Shelby), Wolfe, Wood, Yelton, Mr. Speaker Murray -- 18.

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Representatives present and not voting were: Kernell, Naifeh, Purcell -- 3.

Thereupon, Rep. Peroulas moved that **Senate Bill No. 24**, as amended, be passed on third and final consideration, which motion prevailed by the following vote:

Ayes. . . . .	80
Noes. . . . .	14
Present and not voting. . . . .	1

Representatives voting aye were: Anderson, Armstrong, Bell, Bittle, Bivens, Bragg, Buck, Byrd, Cain, Callicott, Chiles, Clark, Coffey, Collier, Copeland, Crain, Cross, Curlee, Davidson, Davis (Gibson), Davis (Knox), DeBerry, DePriest, Dixon, Duer, Gaia, Garrett, Good, Gunnels, Halteman, Hassell, Haun, Hawkins, Henry (Putnam), Henry (Roane), Herron, Hobbs, Holcomb, Holt, Hubbard, Jones, R. (Shelby), Jones, U. (Shelby), Kent, Kernell, King, Kisber, Love, McAfee, McDaniel, Miller, Moore (Lawrence), Niceley, Nuber, Odom, Peroulas, Phillips, Pinion, Pruitt, Purcell, Rhinehart, Ridgeway, Robinson (Davidson), Robinson (Hamilton), Robinson (Washington), Scruggs, Severance, Sipes, Stallings, Stamps, Starnes, Turner (Hamilton), Turner, C. (Shelby), Ussery, West, Wheeler, Williams, Winningham, Wix, Wolfe, Wood -- 80.

Representatives voting no were: Burnett, Ellis, Givens, Harrill, Head, Hillis, Jackson, Moore (Shelby), Naifeh, Shirley, Turner, L. (Shelby), Whitson, Yelton, Mr. Speaker Murray -- 14.

Representatives present and not voting were: Napier -- 1.

A motion to reconsider was tabled.

**House Bill No. 0299** -- Gas, Petroleum Products, Volatile Oils -- Prohibits interference with certain activities of operator of oil or gas well. Amends TCA, Title 60, Ch. 1.

Rep. Winningham moved that House Bill No. 299 be re-referred to the Calendar and Rules Committee, which motion prevailed.

**House Bill No. 1430** -- Physicians and Surgeons -- Increases charges for medical reports and records. Amends TCA 50-6-204.

On motion, House Bill No. 1430 was made to conform with Senate Bill No. 585.

On motion, **Senate Bill No. 585**, on same subject, was substituted for House Bill No. 1430.

Rep. Bivens moved that Senate Bill No. 585 be passed on third and final consideration.

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Rep. Bivens moved that Senate Bill No. 585 be reset to the Calendar for Monday, May 22, 1989, which motion prevailed.

House Bill No. 1164 -- Attorneys at Law -- Enacts "Legal Service Organization Act of 1989".

Rep. West moved that House Bill No. 1164 be passed on third and final consideration.

Rep. Buck moved to amend as follows:

Amendment No. 1

Amend House Bill No. 1164 by deleting everything following the enacting clause and by substituting instead the following:

SECTION 1. This act shall be interpreted liberally in order to achieve the following purposes:

(1) To encourage the development of effective and economically sound methods for making legal services more readily available;

(2) To protect the interests of the users of legal services and of the public of this state with a minimum of restrictions on experimentation with new forms of organization, administration, or benefits;

(3) To seek to have the risk inherent in experimentation borne by the promoters of new plans rather than by the consumers;

(4) To permit and encourage the providing of legal services through persons other than professional insurers subject to practical and reasonable financial and regulatory requirements;

(5) To permit and encourage fair and effective competition among the various systems of financing legal services and;

(6) To maintain a high level of quality and conformity to professional insurers subject to practical and reasonable financial and regulatory requirements.

SECTION 2. As used in this act, unless the context otherwise requires:

(1) "Commissioner" means the commissioner of commerce and insurance of this state;

(2) "Insurer" means any person who obtains a certificate of authority under this act;

(3)

(a) "Legal Insurance" means the assumption of a contractual obligation to provide specified legal services or reimbursement for legal expenses in consideration of a specified payment for an interval of time, regardless of whether the payment is made by the beneficiaries individually or by a third person for them, in such a manner that the total cost incurred by assuming the obligation is to be spread directly or indirectly among a group of persons; and

(b) "Contractual obligation" in paragraph (a) includes any arrangement in which those persons for whom services are to be provided under the arrangement have reasonable expectations of enforceable rights.

(4)

(a) "Legal insurance" does not include the provision of or reimbursement for legal services incidental to other insurance coverages;

(b) The following are not considered legal insurance under the insurance laws of this state:

(i) Retainer contracts and contingent fee contracts made with individual clients with the fees based on estimates of the nature and amount of services that will be provided to the specific client and similar contracts made with a group of clients involved in the same or closely related legal matters (such as class actions);

(ii) Legal services provided by unions or employee associations to their members in matters relating to employment or occupation;

(iii) Legal services provided by an agency of the federal or state government or subdivision thereof to its employees; and

(iv) Services of a lawyer referral service operated, sponsored or approved by a bar association representative of the general bar of the geographical area in which the association exists.



(5) "Person" means any natural or artificial person including but not limited to individuals, partnerships, associations, trusts, or corporations.

SECTION 3.

(1)

(a) No person may transact the business of legal insurance in this state without first obtaining a certificate of authority:

(i) Under this act; or

(ii) Under the general laws pertaining to insurance.

(b) Any person may apply to the commissioner for and obtain a certificate of authority to transact the business of legal insurance in compliance with this act. This section does not by itself enlarge the powers of any corporation given by its articles of incorporation or charter, but does authorize a corporation formed under the general business, insurance or general nonprofit corporation laws of this state to include in its powers the authority to transact legal insurance.

(c) Any application shall be in a form prescribed by the commissioner. If the applicant is not domiciled in this state, the application must be accompanied by a power of attorney duly executed by the applicant appointing the commissioner, and duly authorized deputies, as the true and lawful attorneys of the applicant in and for this state, upon whom all lawful process in any legal action or proceeding against the applicant on a cause of action arising in this state may be served.

(2) This act does not apply to any person issuing group, blanket or franchise policies if fewer than ten percent (10%) of the certificate holders or insureds reside in this state and the person is regulated to a comparable extent by another state in which a larger number of certificate holders or insureds reside.

SECTION 4.

(1) Upon receipt of an application for a certificate of authority, the commissioner shall issue a certificate pursuant to this act upon payment of the application fee prescribed in Section 18 of this Act,

if the commissioner is satisfied that the following conditions are met:

(a) The persons responsible for the conduct of the affairs of the applicant are competent, trustworthy and of good reputation;

(b) The applicant demonstrates the willingness and ability to assure that the promised benefits can be provided. In making this determination the commissioner shall consider so far as applicable:

(i) The adequacy of capital and surplus considered in relation to the other items in this subsection;

(ii) Any agreement with lawyers for the provision of legal services;

(iii) The financial soundness of the applicant's arrangements for legal services and the schedule of rates proposed to be used in connection therewith;

(iv) Any agreement with another person authorized under this act, an insurer licensed under the general insurance law to do business in this state to provide reinsurance, or an agency of the federal or state government for insuring the payment of the cost of legal services or the provision for automatic applicability of an alternative coverage in the event the insurer is unable to perform its obligations;

(v) Any surety bond or deposit of cash or securities as a guarantee that the obligations will be duly performed; and

(vi) If the applicant is licensed as an insurer under other insurance laws, whether the applicant has complied with the requirements of those laws.

(2) A certificate of authority shall be perpetual and shall continue in force unless there are grounds for suspension or revocation.

#### SECTION 5.

(1)

(a) Each contractual obligation for legal insurance shall be evidenced by a policy or master policy. Legal insurance may be written on an individual, group, blanket or franchise basis. Each person insured under a group policy must be issued a certificate of coverage. No legal insurance policy or certificate of any kind may be issued or delivered in this state unless and until a copy of the form thereof has been filed with the commissioner and approved.

(b) The forms must meet the following requirements:

(i) Policies must contain a detailed list and description of the legal services promised or the legal matters for which expenses are to be reimbursed and the amount of reimbursement;

(ii) Policies and certificates must indicate prominently the name of the insurer and the full address of its principal place of business; and

(iii) Certificates issued under group policies may summarize the terms of the master contract but must contain a full and clear statement of the benefits provided.

(c) The commissioner may disapprove a form if it is found that it:

(i) Does not meet the requirements of subsection (b);

(ii) Is unfair, unfairly discriminatory, misleading, obscure or encourages misrepresentation or misunderstanding of the contract; including bases where the form:

(a) Provides coverage or benefits that are too restricted to achieve the purposes for which the policy is designed;

(b) Fails to attain a reasonable degree of readability, simplicity and conciseness; or

(c) Is misleading, deceptive or obscure because of its physical aspects such as format, typography, style, color, material or organization.

(iii) Provides coverage or benefits or contains other provisions that would endanger the financial soundness of the insurer; or

(iv) Is contrary to law.

(2)

(a) Rate filing or rate review requirements shall be the same as those for personal risk insurance in Tennessee Code Annotated, Section 56-5-301, et seq.

(b) The rates must meet the following requirements:

(i) They must be established and justified in accordance with generally accepted insurance principles including, but not limited to, the experience or judgment of the insurer making the rate filing or actuarial computations;

(ii) They may not be excessive, inadequate or unfairly discriminatory. Rates are not unfairly discriminatory because they are averaged broadly among persons insured under group, franchise or blanket policies; and

(iii) The commissioner may be written order suspend or modify the requirement of filing for any risk, group or class of risk, the rates for which cannot practically be filed before they are used.

(3) If the commissioner determines that any form reviewed under subsection (1) of this section and any schedule of rates reviewed under subsection (2) of this section complies with the requirements of this section he or she shall approve within thirty (30) days, which may be extended for an additional thirty (30) days by notice in writing to the person making the filing prior to the expiration of the first thirty (30) days. If the commissioner disapproves a filing he or she shall notify the person making it in writing specifying therein the reasons for this disapproval. A hearing shall be granted within thirty (30) days after a request in writing by any person aggrieved by the decision of the commissioner. If the commissioner does not disapprove a form or schedule of rates within thirty (30) days of the filing or an extension thereof as provided above, they shall be deemed approved. The

commissioner may, after notice and hearing disapprove any rate that has been previously approved or deemed approved.

(4) Any schedule of compensation paid either directly to lawyers or to beneficiaries as reimbursement of costs incurred for covered legal services shall be filed with the commissioner within thirty (30) days after its use.

(5) The commissioner may require the submission of whatever relevant information is reasonably necessary in determining whether to approve or disapprove a filing made pursuant to Subsections (1), (2), or (4).

#### SECTION 6.

(1) No insurer may enter into any exclusive agency contract or management contract unless the contract is first filed with the commissioner and not disapproved under this section within thirty (30) days after filing, or such reasonable extended period as the commissioner may specify by notice within the thirty (30) days.

(2) The commissioner shall disapprove a contract under subsection (1) if he or she finds that:

(a) It subjects the insurer to excessive charges; or

(b) the contract extends for an unreasonable period of time; or

(c) The contract does not contain fair and adequate standards of performance; or

(d) The persons empowered under the contract to manage the insurer are not sufficiently trustworthy, competent, experienced and free from conflict of interest to manage the insurer with due regard for the interests of its insureds, creditors or the public; or

(e) The contract contains provisions which impair the interests of the insurer's insureds or creditors of the public in this state.

SECTION 7. An insurer shall annually, on or before the first day of March file with the commissioner a report verified by at least two (2) principal officers. The report shall be on forms prescribed by the commissioner and shall include:

(1) A financial statement of the insurer's legal insurance business including:

(a) Its balance sheet; and

(b) Its receipts and disbursements for the preceding year.

(2) Any material changes in the information submitted pursuant to Section 4 of this act;

(3) Such information about the number of persons protected and terminated as may be prescribed by the commissioner;

(4) Such other information relating to the performance of the insured as is necessary to enable the commissioner to carry out his duties under this act.

SECTION 8. An insurer must maintain the reserves necessary for the sound operation of the business including unearned premium reserves. The amount and manner of calculating these reserves shall be determined by rule by the commissioner in accordance with Section 17 of this act.

SECTION 9. The investable funds generated through the transaction of the business of legal insurance by persons who are not licensed to transact other lines of insurance shall be invested in securities or other investments permitted by the laws of this state for the investment of assets of life insurance.

SECTION 10. The Tennessee Consumer Protection Act applies to persons transacting the business of legal insurance except as is inconsistent with this act.

SECTION 11. The commissioner may, in accordance with Section 16 of this act, promulgate reasonable rules and regulations to provide for the licensing of agents.

SECTION 12.

(1) The commissioner shall make an examination of the affairs of any insurer as often as he or she deems it necessary for the protection of the interests of the people of this state.

(2) The following sections shall apply to examinations conducted pursuant to Tennessee Code Annotated, Sections 56-1-408 through 56-1-413.

SECTION 13. The commissioner may suspend, revoke or refuse to renew any certificate of authority to a person

transacting the business of legal insurance under this act pursuant to Tennessee Code Annotated, Title 56, Chapters 1, 2 and 8.

SECTION 14. The provisions of the Uniform Insurers Liquidation Act, Tennessee Code Annotated, Section 56-9-101, et seq., shall apply to a person transacting the business of legal insurance under the provisions of this act.

SECTION 15. The commissioner may promulgate in accordance with the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-101, et seq., such reasonable rules as are necessary or proper to carry out the provisions of this act.

SECTION 16. Every person subject to this act shall pay to the commissioner the fees required by Tennessee Code Annotated, Title 56, Chapter 4.

SECTION 17. Legal insurance premiums are taxed at the rate of two and one-half per cent (2 1/2%).

SECTION 18. All applications, filings, and reports required under this act shall be treated as public documents.

SECTION 19. Subject to the provisions of this act, Tennessee Code Annotated, Sections 56-2-107 and 56-2-111, apply to persons transacting the business of legal insurance.

SECTION 20. The provisions of the insurance law apply generally to legal insurance offered by insurers licensed to write other kinds of insurance; provided that legal insurance sold by such insurers under a certificate of authority obtained under this act shall be regulated by the provisions of Sections 1, 2, 3, 4, 5, 6, 11, 13, 16, 18 of this act instead of corresponding sections of the insurance code.

SECTION 21.

(1) Orders or rules or regulations of the commissioner issued under the provisions of this act shall be subject to the provisions of the general insurance laws and/or the provisions of the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-101, et seq., relating to hearings and appeals.

(2) Except as otherwise provided in this act, the provisions of the general insurance law shall not apply to insurers authorized under this act.

SECTION 22. The penalty provisions set out in Tennessee Code Annotated, Title 56, shall apply.

SECTION 23. This act shall take effect January 1, 1990, the public welfare requiring it. Any person transacting the business of legal insurance as of the effective date of this act shall submit an application for a certificate of authority under Section 3 of this act within ninety (90) days of the effective date of this act and that applicant may continue to operate until the commissioner acts upon the application. In the event that an application is denied under Section 4 of this act, the applicant shall be treated as a legal insurer whose certificate of authority has been revoked.

SECTION 24. This act may be cited as the Tennessee Legal Insurance Act.

SECTION 25. If any section in this act or any part of any section is declared invalid or unconstitutional, such declaration of invalidity shall not affect the validity of the remaining portions thereof.

On motion, Amendment No. 1 was adopted.

Thereupon, Rep. West moved that House Bill No. 1164, as amended, be passed on third and final consideration, which motion prevailed by the following vote:

Ayes. . . . .	97
Noes. . . . .	0

Representatives voting aye were: Anderson, Armstrong, Bell, Bittle, Bivens, Bragg, Buck, Burnett, Byrd, Cain, Callicott, Chiles, Clark, Coffey, Collier, Copeland, Crain, Cross, Curlee, Davidson, Davis (Cocke), Davis (Gibson), Davis (Knox), DeBerry, DePriest, Dixon, Duer, Ellis, Gaia, Givens, Good, Gunnels, Halteman, Harrill, Hassell, Haun, Hawkins, Head, Henry (Putnam), Henry (Roane), Herron, Hillis, Hobbs, Holcomb, Holt, Hubbard, Huskey, Jackson, Jones, R. (Shelby), Jones, U. (Shelby), Kent, Kernell, King, Kisber, Love, McAfee, McDaniel, Miller, Moody, Moore (Lawrence), Moore (Shelby), Naifeh, Napier, Niceley, Nuber, Odom, Peroulas, Phillips, Pinion, Pruitt, Purcell, Rhinehart, Ridgeway, Robinson (Davidson), Robinson (Hamilton), Robinson (Washington), Scruggs, Severance, Shirley, Sipes, Stallings, Stamps, Starnes, Turner (Hamilton), Turner, C. (Shelby), Turner, L. (Shelby), Ussery, West, Wheeler, Whitson, Williams, Winningham, Wix, Wolfe, Wood, Yelton, Mr. Speaker Murray

-- 97.

A motion to reconsider was tabled.



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\*House Bill No. 1138 -- State Employees -- Increases number of applicants certain departments may choose from when filling positions. Amends TCA 8-30-309.

On motion, House Bill No. 1138 was made to conform with Senate Bill No. 1309.

On motion, Senate Bill No. 1309, on same subject, was substituted for House Bill No. 1138.

Rep. Crain moved that Senate Bill No. 1309 be passed on third and final consideration.

Rep. Dixon moved to amend as follows:

Amendment No. 1

Amend Senate Bill No. 1309 by deleting the period "." at the end of the amendatory language of Section 1 and by substituting instead the following:

; provided, however, the provisions of this subdivision may be utilized only in individual cases and only after the commissioner of personnel has reviewed the circumstances of the case and has concluded, based on the preponderance of the evidence readily available, that the provisions of this subdivision will not be used to bypass female or minority eligibles listed among the top three (3) rankings on the applicable promotion list or among the top five (5) rankings on the applicable employment list.

On motion, Amendment No. 1 was adopted.

Rep. Dixon moved to amend as follows:

Amendment No. 2

AMEND Senate Bill No. 1309 by deleting from the amendatory language of Section 1 the words "the department of correction" and by substituting instead the words "the career service".

AND FURTHER AMEND by deleting from the amendatory language of Section 1 the words "for the department".

Rep. Crain moved that Amendment No. 2 be tabled, which motion prevailed.

Rep. Crain moved that Senate Bill No. 1309 be passed on third and final consideration.

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Rep. Crain moved that Senate Bill No. 1309 be reset to the Calendar for Monday, May 22, 1989, which motion prevailed.

**CONSENT CALENDAR**

**House Resolution No. 0054 --** Memorials, Interns and Pages -- Honors Kimmy Yvette Jefferson, 1989 legislative intern.

**House Joint Resolution No. 0388 --** Memorials, Interns and Pages -- Honors Linda Dianne Lymon, 1989 legislative intern.

**House Joint Resolution No. 0389 --** Memorials, Professional Achievement -- Congratulates Joseph S. York on being named Fayette County "Teacher of the Year" grades 9-12.

**House Joint Resolution No. 0391 --** Memorials, Interns and Pages -- Honors Gayla Ann Kirksey, 1989 legislative intern.

**House Joint Resolution No. 0392 --** Memorials, Recognition and Thanks -- Honors Archie Vernon Dunn.

**House Joint Resolution No. 0393 --** Memorials, Condolence -- Honors memory of G. Reece Gibson.

**House Joint Resolution No. 0395 --** Memorials, Interns and Pages -- Recognizes Mary A. Warnecke, 1989 legislative intern.

**House Bill No. 1531 --** Henderson -- Revises qualifications for holding office. Amends Chapter 198, Acts of 1901, as amended.

**Senate Joint Resolution No. 0269 --** Memorials, Public Service -- Honors P.K. Seidman for contributions to Memphis and Tennessee.

**Senate Joint Resolution No. 0271 --** Memorials, Condolence -- Honors memory of Jack E. Thompson, Jr., gunner's mate aboard USS Iowa.

**Senate Joint Resolution No. 0272 --** Memorials, Sports -- Honors Coach Jim Crowder on selection as Tennessee Coach of the Year.

**Senate Joint Resolution No. 0276 --** Memorials, Recognition and Thanks -- Honors Buddy Killen, renown music publisher.

**Senate Joint Resolution No. 0280 --** Memorials, Interns and Pages -- Honors Paul Krivecka, 1989 legislative intern.

**Senate Joint Resolution No. 0281 --** Memorials, Professional Achievement -- Congratulates Pat Rowland, Shelby County Teacher of the Year.

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Senate Joint Resolution No. 0284 -- Memorials, Interns and Pages -- Honors Clarke Brannen Futch, 1989 legislative intern.

Senate Joint Resolution No. 0285 -- Memorials, Congratulations -- Congratulates Warren County Senior High School Junior ROTC girls' drill team on fine showing in National Drill Team competition.

Senate Joint Resolution No. 0286 -- Memorials, Sports -- Honors Coach Mike Rader and Happy Valley High School girls' basketball team, TSSAA Class AA runner-up.

Senate Joint Resolution No. 0293 -- Memorials, Public Service -- Honors Troopers Richard Austin and Fidencio Medina for their role in confiscation of cocaine in Dickson County.

Rep. Phillips moved that all House Bills having companion Senate Bills and are on the Clerk's desk be conformed and substituted for the appropriate House Bill, and that all Senate and House Bills on the Consent Calendar be passed on third and final consideration, all House Resolutions and House Joint Resolutions be adopted, and all Senate Joint Resolutions on the Consent Calendar be concurred in, which motion prevailed by the following vote:

Ayes. . . . .	95
Noes. . . . .	0

Representatives voting aye were: Anderson, Armstrong, Bell, Bittle, Bivens, Bragg, Buck, Burnett, Byrd, Cain, Callicott, Chiles, Clark, Coffey, Collier, Copeland, Crain, Cross, Curlee, Davidson, Davis (Cocke), Davis (Gibson), Davis (Knox), DeBerry, DePriest, Dixon, Duer, Ellis, Gaia, Garrett, Givens, Good, Gunnels, Halteman, Harrill, Hassell, Haun, Hawkins, Head, Henry (Putnam), Henry (Roane), Herron, Hillis, Hobbs, Holcomb, Holt, Hubbard, Huskey, Jackson, Jones, R. (Shelby), Kent, Kernell, Kisber, Love, McAfee, McDaniel, Miller, Moody, Moore (Lawrence), Moore (Shelby), Naifeh, Napier, Niceley, Nuber, Odom, Peroulas, Phillips, Pinion, Pruitt, Purcell, Rhinehart, Ridgeway, Robinson (Davidson), Robinson (Washington), Scruggs, Severance, Shirley, Sipes, Stallings, Stamps, Starnes, Turner (Hamilton), Turner, C. (Shelby), Turner, L. (Shelby), Ussery, West, Wheeler, Whitson, Williams, Winningham, Wix, Wolfe, Wood, Yelton, Mr. Speaker Murray -- 95.

A motion to reconsider was tabled.

#### HOUSE ACTION ON SENATE AMENDMENTS

House Bill No. 1249 -- Taxes, Sales -- Requires reports from dealers of aviation fuel under the Retailers' Sales Tax Act. Amends TCA, Title 67, Ch. 6, Pt. 4.

Senate Amendment No. 1

Amend House Bill No. 1249 by inserting the following language as new, appropriately designated sections immediately preceding the effective date section and by appropriately renumbering the effective date section:

Section \_\_\_\_\_. On or before December 31st each year, the commissioner of revenue and the commissioner of transportation shall jointly publish and provide to the governor and to each member of the general assembly a report which summarizes the amount and source of all moneys received and deposited during the preceding fiscal year in the transportation equity fund, created pursuant to Tennessee Code Annotated, Section 67-6-102(b). The report shall also include the following information:

- (1) The total amount of moneys received under the provisions of Tennessee Code Annotated, Title 67, Chapter 6, from the sale, use, consumption, distribution, or storage for use or consumption of fuels used for aviation;
- (2) The total amount of moneys received under the provisions of Tennessee Code Annotated, Title 67, Chapter 6, from the sale, use, consumption, distribution, or storage for use or consumption of fuels used for railways;
- (3) The total amount of moneys received under the provisions of Tennessee Code Annotated, Title 67, Chapter 6, from the sale, use, consumption, distribution, or storage for use or consumption of fuels used for water carriers;
- (4) The portion of the transportation equity fund used by the department of transportation for railway related programs and activities, including a brief description of each such program and activity receiving such funding;
- (5) The portion of the transportation equity fund used by the department of transportation for aeronautics related programs and activities, including a brief description of each such program and activity receiving such funding; and
- (6) The portion of the transportation equity fund used by the department of transportation for waterways related programs and activities, including a brief description of each such program and activity receiving such funding.

Section \_\_\_\_\_. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

Rep. Naifeh moved that the House concur in Senate Amendment(s) No(s). 1, which motion prevailed by the following vote:

Ayes. . . . .	96
Noes. . . . .	0

Representatives voting aye were: Anderson, Armstrong, Bell, Bittle, Bivens, Bragg, Buck, Burnett, Byrd, Cain, Callicott, Chiles, Clark, Coffey, Collier, Copeland, Crain, Cross, Curlee, Davidson, Davis (Cocke), Davis (Gibson), Davis (Knox), DeBerry, DePriest, Dixon, Duer, Ellis, Gaia, Garrett, Givens, Good, Gunnels, Halteman, Harrill, Hassell, Haun, Hawkins, Head, Henry (Putnam), Henry (Roane), Herron, Hillis, Hobbs, Holcomb, Holt, Hubbard, Huskey, Jackson, Jones, R. (Shelby), Kent, Kernell, Kisber, Love, McAfee, McDaniel, Miller, Moody, Moore (Lawrence), Moore (Shelby), Naifeh, Napier, Niceley, Nuber, Odom, Peroulas, Phillips, Pinion, Pruitt, Purcell, Rhinehart, Ridgeway, Robinson (Davidson), Robinson (Hamilton), Robinson (Washington), Scruggs, Severance, Shirley, Sipes, Stallings, Stamps, Starnes, Turner (Hamilton), Turner, C. (Shelby), Turner, L. (Shelby), Ussery, West, Wheeler, Whitson, Williams, Winningham, Wix, Wolfe, Wood, Yelton, Mr. Speaker Murray -- 96.

A motion to reconsider was tabled.

#### UNFINISHED BUSINESS

##### RULES SUSPENDED

Rep. West moved to suspend Rule No. 81(1), relative to the time for placing bills on notice in Committee, so that House Joint Resolution No. 360 can be heard by the Judiciary Committee on Tuesday, May 16, 1989, which motion prevailed.

#### HOUSE BILL REFERRED

Rep. Starnes moved that House Bill No. 1259, with amendments, be recalled from the State and Local Government Committee and referred to the Calendar and Rules Committee, which motion prevailed.

##### RULES SUSPENDED

Rep. Holt moved to suspend Rule No. 81(1), relative to the time

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for placing bills on notice in Committee, so that House Bill No. 1534, pending second consideration today, can be heard by the Judiciary Committee on Tuesday, May 16, 1989, which motion prevailed.

#### **HOUSE BILL REFERRED**

Rep. Collier moved that House Bill No. 1515 be recalled from the State and Local Government Committee and referred to the Finance, Ways and Means Committee, which motion prevailed.

#### **RULES SUSPENDED**

Rep. Collier moved to suspend Rule No. 81(1), relative to the time for placing bills on notice in Committee, so that House Bill No. 1515 can be heard by the Finance, Ways and Means Committee next week, which motion prevailed.

#### **RULES SUSPENDED**

Rep. Moore moved to suspend the rules for the immediate introduction of Senate Joint Resolution No. 198, out of order, which motion prevailed, and further moved that it be referred the Labor and Consumer Affairs Committee.

**Senate Joint Resolution No. 0198 -- General Assembly, Studies -- Creates joint committee to study lien laws.**

Rep. Moore (Lawrence) moved to suspend Rule No. 81(1), relative to the time for placing bills on notice in Committee, so that Senate Joint Resolution No. 198 can be heard by the Labor and Consumer Affairs Committee on Wednesday, May 17, 1989, which motion prevailed.

#### **RULES SUSPENDED**

Rep. Bragg moved to suspend the rules for the immediate introduction of Senate Joint Resolution No. 96, out of order, which motion prevailed, and further moved that it be referred to the Judiciary Committee.

**\*Senate Joint Resolution No. 0096 -- Memorials, Congress -- Urges Congress to respect Tenth Amendment.**

Rep. Bragg moved to suspend Rule No. 81(1), relative to the time for placing bills on notice in Committee, so that Senate Joint Resolution No. 96 can be heard by the Judiciary Committee on Tuesday, May 17, 1989, which motion prevailed.

**BILLS WITHDRAWN**

On motion of Rep. Naifeh, House Bill No. 1048 was recalled from the Commerce Committee.

On motion of Rep. Naifeh, House Bill No. 1048 was withdrawn from the House.

**RULES SUSPENDED**

Rep. Ussery moved that the rules be suspended for the immediate introduction of House Resolution No. 56, out of order, which motion prevailed, and further moved that it be referred to the Judiciary Committee.

House Resolution No. 56 -- General Assembly, Studies -- Creates special committee to evaluate collection methods utilized by courts. by \*Ussery, \*Buck, \*Purcell, \*Clark, \*Stamps, \*Kent.

Rep. Ussery moved to suspend Rule No. 81(1), relative to the time for placing bills on notice in Committee, so that House Resolution No. 56 can be heard by the Judiciary Committee on Tuesday, May 16, 1989, which motion prevailed.

**RULES SUSPENDED**

Rep. Hillis moved to suspend Rule No. 81(1), relative to the time for placing bills on notice in Committee, so that House Joint Resolution No. 390 can be heard by the Conservation and Environment Committee today, which motion prevailed.

**MOTION**

Rep. Chiles moved that the House convene on Monday at 4:00 p.m., which motion failed by the following vote:

Ayes. . . . .	26
Noes. . . . .	49
Present and not voting. . . . .	10

Representatives voting aye were: Cain, Clark, Collier, Davidson, Davis (Gibson), DePriest, Duer, Ellis, Good, Gunnels, Halteman, Head, Henry (Putnam), Herron, Hillis, Holt, Miller, Odom, Peroulas, Pinion, Rhinehart, Robinson (Davidson), Stallings, Stamps, West, Wix -- 26.

Representatives voting no were: Anderson, Armstrong, Bell, Bittle, Bivens, Buck, Burnett, Byrd, Callicott, Coffey, Crain, Cross, Curlee, Davis (Knox), DeBerry, Dixon, Gaia, Harrill, Hassell, Haun, Hawkins, Hobbs, Hubbard, Jones, R. (Shelby), Jones, U.

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(Shelby), Kernell, King, Kisber, Love, McDaniel, Moody, Moore (Lawrence), Moore (Shelby), Napier, Niceley, Phillips, Pruitt, Robinson (Washington), Shirley, Sipes, Turner, C. (Shelby), Turner, L. (Shelby), Ussery, Wheeler, Williams, Winningham, Wolfe, Wood, Mr. Speaker Murray -- 49.

Representatives present and not voting were: Bragg, Givens, Henry (Roane), Holcomb, Kent, Naifeh, Purcell, Ridgeway, Scruggs, Turner (Hamilton) -- 10.

### **SPONSORS ADDED**

Without objection, the rules were suspended to allow the following members to add their names as sponsors as indicated below, the prime sponsor of each having agreed to such addition:

House Bill No. 1197: Rep(s). Huskey added as prime sponsor(s).

House Bill No. 1217: Rep(s). Stamps added as prime sponsor(s).

House Bill No. 1523: Rep(s). Buck added as prime sponsor(s).

House Joint Resolution No. 393: Rep(s). Moody added as prime sponsor(s).

### **SPONSORS REMOVED**

On motion, Rep. Herron was removed as sponsor of House Bill No. 972.

### **INTRODUCTION OF RESOLUTIONS**

House Resolution No. 0055 -- Memorials, Personal Achievement -- Honors Laura Rebecca Baskin on high academic achievement. by \*Hobbs, \*Bragg.

The Speaker referred House Resolution No. 55 to the Calendar and Rules Committee.

House Joint Resolution No. 0396 -- Memorials, Retirement -- Honors Thomas H. Brown on retirement from Maury County ASCS office. by \*Napier.

The Speaker referred House Joint Resolution No. 396 to the Calendar and Rules Committee.

House Joint Resolution No. 0397 -- Memorials, Personal Achievement -- Honors Tre Hargett, vice president of Student Government at Memphis State University. by \*Crain.



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The Speaker referred House Joint Resolution No. 397 to the Calendar and Rules Committee.

**House Joint Resolution No. 0398 --** Memorials, Personal Achievement -- Honors Halls High School English winners. by \*Crain.

The Speaker referred House Joint Resolution No. 398 to the Calendar and Rules Committee.

**House Joint Resolution No. 0399 --** Memorials, Professional Achievement -- Honors management and employees of Kingston Fossil Plant on receipt of two TVA awards. by \*Henry Jim.

The Speaker referred House Joint Resolution No. 399 to the Calendar and Rules Committee.

**House Joint Resolution No. 0400 --** Memorials, Sports -- Congratulates Coach Mike Rader and Happy Valley High School girls' basketball team, TSSAA Class AA state tournament runner-up. by \*Whitson.

The Speaker referred House Joint Resolution No. 400 to the Calendar and Rules Committee.

**SENATE JOINT RESOLUTIONS  
(Congratulatory and Memorializing)**

**Senate Joint Resolution No. 0287 --** Memorials, Interns and Pages -- Honors Carolyn M. Dowd, 1989 legislative intern.

The Speaker referred Senate Joint Resolution No. 287 to the Calendar and Rules Committee.

**\*Senate Joint Resolution No. 0288 --** Memorials, Public Service -- Commends Reverend Tom Melzoni.

The Speaker referred Senate Joint Resolution No. 288 to the Calendar and Rules Committee.

**RESOLUTIONS LYING OVER**

**\*Senate Joint Resolution No. 0105 --** Memorials, Government Officials -- Urges governor to establish on-going task force on commuter rail services.

The Speaker referred Senate Joint Resolution No. 105 to the Transportation Committee.

**\*Senate Joint Resolution No. 0145 --** General Assembly, Studies -- Creates special joint committee to study licensing of contractors and subcontractors.

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The Speaker referred Senate Joint Resolution No. 145 to the Commerce Committee.

**\*Senate Joint Resolution No. 0221 -- General Assembly, Studies**  
-- Creates special joint committee to study standards for counties to designate, accept, build and close county roads.

The Speaker referred Senate Joint Resolution No. 221 to the Transportation Committee.

**\*Senate Joint Resolution No. 0224 -- General Assembly, Studies**  
-- Creates special committee to study fair employment practices laws.

The Speaker referred Senate Joint Resolution No. 224 to the Labor and Consumer Affairs Committee.

**INTRODUCTION OF BILLS**

**House Bill No. 1535 -- Fayette County -- Enacts Fayette County Employees Uniform Nepotism Policy Act of 1989.** by \*Stallings, \*Naifeh.

Passed first consideration.

**SENATE BILLS ON FIRST CONSIDERATION**

**\*Senate Bill No. 0190 -- Taxes, Real Property -- Increases fee paid to county registers for issuing receipts on transfer taxes.** Amends TCA 67-4-409.

Held on the Clerk's desk pending third consideration of companion House Bill No. 813.

**\*Senate Bill No. 0259 -- Consumer Protection -- Prohibits false or misleading sales or advertising techniques relative to water treatment device sales.**

Held on the Clerk's desk pending third consideration of companion House Bill No. 486.

**Senate Bill No. 0392 -- Employees, Employers -- Corrects engrossing error in Right to Know Law.** Amends TCA, Title 50.

Held on the Clerk's desk pending third consideration of companion House Bill No. 128.

**\*Senate Bill No. 0515 -- Unemployment Compensation -- Revises purpose and funding of special administrative fund and unemployment compensation fund.** Amends TCA 50-7-503.

Held on the Clerk's desk pending third consideration of companion House Bill No. 498.

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**\*Senate Bill No. 0553 -- Insurance Companies, Agents, Brokers --**  
Requires certification of course of study prior to licensure as an insurance agent or limited insurance representative. Amends TCA, Title 56, Ch. 6.

Held on the Clerk's desk pending third consideration of companion House Bill No. 1191.

**\*Senate Bill No. 0668 -- Correctional Programs -- Enacts the "Development District Correction Act".**

Held on the Clerk's desk pending third consideration of companion House Bill No. 1265.

### **HOUSE BILLS ON SECOND CONSIDERATION**

**House Bill No. 1533 -- Lexington --** Passed second consideration and held on Clerk's desk pending approval by local delegation.

**House Bill No. 1534 -- Election Laws --** Passed second consideration and referred to the Judiciary Committee.

### **REQUEST TO CHANGE VOTE**

**MR. SPEAKER:** Pursuant to Rule No. 31, I wish to express a desire to change my original stand from aye to no on Senate Bill No. 24 and have this statement entered in the Journal.

Rep. Shirley Duer

### **CONSERVATION AND ENVIRONMENT**

**May 11, 1989**

**MR. SPEAKER:** Your Conservation and Environment Committee begs leave to report that we have carefully considered and recommend for adoption: House Resolution(s) No(s). 47 (as amended) and House Joint Resolution(s) No(s). 390.

HILLIS, Chairman.

Under the rules, House Resolution(s) No(s). 47 (as amended); and House Joint Resolution(s) No(s). 390; was/were transmitted to the Calendar and Rules Committee.

**SIGNED**

**May 11, 1989**

The Speaker announced that he had signed the following: Senate Bill(s) No(s). 734.

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REPORT OF CHIEF ENGROSSING CLERK  
May 11, 1989

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have transmitted to the Governor the following: House Bill(s) No(s). 256, 626, 639, 645, 652, 823, 869, 996, 1079, 1110, 1126, 1171, 1422, 1479, 1486, 1501, 1503, 1506, 1508 and 1510; and House Joint Resolution(s) No(s). 108, 123, 310, 313, 314, 317, 318, 319, 321, 322, 323, 324, 326, 328, 330, 331, 332, 335, 336, 338, 339, 340, 341, 343, 352, 356 and 386; for his action.

BETTY KAY FRANCIS,  
Chief Engrossing Clerk.

MESSAGE FROM THE SENATE  
May 11, 1989

MR. SPEAKER: I am directed to return to the House, House Bill No. 63.

The Speaker appointed a Conference Committee composed of Senators Hicks, Koella and Haynes to confer with a like Committee from the House to resolve the differences of the two bodies on House Bill No. 63.

CLYDE W. McCULLOUGH, JR.,  
Chief Clerk.

ENGROSSED BILLS  
May 11, 1989

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have carefully examined House Bill(s) No(s). 809; and find same correctly engrossed and ready for transmission to the Senate.

BETTY KAY FRANCIS,  
Chief Engrossing Clerk.

ENGROSSED BILLS  
May 11, 1989

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have carefully examined House Bill(s) No(s). 977; and find same correctly engrossed and ready for transmission to the Senate.

BETTY KAY FRANCIS,  
Chief Engrossing Clerk.

THURSDAY, MAY 11, 1989 -- FORTY-FIFTH LEGISLATIVE DAY

**SIGNED**  
**May 11, 1989**

The Speaker announced that he had signed the following: House Joint Resolution(s) No(s). 344, 345, 346, 347, 348, 349 and 351.

**MESSAGE FROM THE SENATE**  
**May 11, 1989**

MR. SPEAKER: I am directed to return to the House, House Bill(s) No(s). 1470, 1507, 1512, 1513, 1514, 1516, 1517, 1518, 1520, 1521, 1526, 1527, 1528, 1529 and 1530; substituted for Senate Bill(s) on same subject(s) and passed by the Senate.

CLYDE W. McCULLOUGH, JR.,  
Chief Clerk.

**MESSAGE FROM THE SENATE**  
**May 11, 1989**

MR. SPEAKER: I am directed to return to the House, House Joint Resolution(s) No(s). 353, 354, 357, 358, 359, 361, 362, 363, 364, 365, 366, 367, 368 and 369; concurred in by the Senate.

CLYDE W. McCULLOUGH, JR.,  
Chief Clerk.

**MESSAGE FROM THE SENATE**  
**May 11, 1989**

MR. SPEAKER: I am directed to return to the House, House Bill(s) No(s). 696; substituted for Senate Bill(s) on same subject(s), amended, and passed by the Senate.

CLYDE W. McCULLOUGH, JR.,  
Chief Clerk.

**SIGNED**  
**May 11, 1989**

The Speaker announced that he had signed the following: Senate Bill(s) No(s). 150, 156, 179, 242, 292, 296, 300, 379, 487, 500, 520, 569, 635, 676, 720, 728, 857, 877, 908, 1118, 1147, 1204, 1219, 1345, 1364, 1406, 1426 and 1439; and Senate Joint Resolution(s) No(s). 201, 202, 203, 204, 205, 206, 215, 238, 239, 241, 242, 245, 248, 250, 251, 253, 254, 255, 256, 258, 259, 260 and 273.

THURSDAY, MAY 11, 1989 -- FORTY-FIFTH LEGISLATIVE DAY

**ENGROSSED BILLS**

**May 11, 1989**

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have carefully examined House Bill(s) No(s). 122, 618, 1164, 1272 and 1531; and House Joint Resolution(s) No(s). 388, 389, 391, 392, 393 and 395; and find same correctly engrossed and ready for transmission to the Senate.

BETTY KAY FRANCIS,  
Chief Engrossing Clerk.

**MESSAGE FROM THE SENATE**

**May 11, 1989**

MR. SPEAKER: I am directed to return to the House, House Joint Resolution(s) No(s). 344, 345, 346, 347, 348, 349 and 351; signed by the Speaker.

CLYDE W. McCULLOUGH, JR.,  
Chief Clerk.

**MESSAGE FROM THE SENATE**

**May 11, 1989**

MR. SPEAKER: I am directed to transmit to the House, Senate Bill(s) No(s). 270, 293, 573, 575, 576, 577, 1037, 1330 and 1354; also, Senate Joint Resolution(s) No(s). 261, 265, 266, 267, 268, 282 and 283; for the signature of the Speaker.

CLYDE W. McCULLOUGH, JR.,  
Chief Clerk.

**MESSAGE FROM THE SENATE**

**May 11, 1989**

MR. SPEAKER: I am directed to return to the House, House Bill(s) No(s). 154, 315, 328, 415, 427, 683, 694, 725, 977 and 997; substituted for Senate Bill(s) on same subject(s) and passed by the Senate.

CLYDE W. McCULLOUGH, JR.,  
Chief Clerk.

**SIGNED**

**May 11, 1989**

The Speaker announced that he had signed the following: House Resolution(s) No(s). 10, 51 and 53.

THURSDAY, MAY 11, 1989 -- FORTY-FIFTH LEGISLATIVE DAY

MESSAGE FROM THE SENATE

May 11, 1989

MR. SPEAKER: I am directed to transmit to the House, Senate Bill(s) No(s). 565, 626, 767, 840, 911, 917, 979 and 1084; passed by the Senate.

CLYDE W. McCULLOUGH, JR.,  
Chief Clerk.

Senate Bill No. 0565 -- Solid Waste Disposal -- Prohibits issuing solid waste registrations if landfill is located in floodplain. Amends TCA, Title 68, Ch. 31.

\*Senate Bill No. 0626 -- Board of Regents -- Increases age requirement for certain members. Amends TCA, Title 49, Ch. 8, Pt. 2.

\*Senate Bill No. 0767 -- Insurance, Fire and Casualty -- Revises maximum permissible risk of certain county mutual insurance companies. Amends TCA 56-22-101, 106.

Senate Bill No. 0840 -- Hazardous Materials -- Authorizes forms and reporting dates under Hazardous Chemical Right to Know Law which correspond to federal law requirements. Amends TCA, Title 50, Ch. 3, Pt. 20.

Senate Bill No. 0911 -- Fire Prevention and Investigation -- Requires installation of smoke detectors in public housing units and residential rental units. Amends TCA, Title 68, Ch. 17.

Senate Bill No. 0917 -- Consumer Protection -- Enacts "Tennessee Consumer Protection Warranty Extension Act". Amends TCA, Title 48, Ch. 18.

\*Senate Bill No. 0979 -- Probation -- Requires persons convicted of certain drug offenses to submit to mandatory drug tests as condition of probation. Amends TCA 40-35-303.

\*Senate Bill No. 1084 -- Drivers' Licenses -- Extends certain privileges to persons holding hardship licenses. Amends TCA 55-50-102.

REPORT OF CHIEF ENGROSSING CLERK

May 11, 1989

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have transmitted to the Governor the following: House Joint Resolution(s) No(s). 344, 345, 346, 347, 348, 349 and 351; for his action.

BETTY KAY FRANCIS,  
Chief Engrossing Clerk.

THURSDAY, MAY 11, 1989 -- FORTY-FIFTH LEGISLATIVE DAY

REPORT OF COMMITTEE ON CALENDAR AND RULES  
May 11, 1989

MR. SPEAKER: Your Committee on Calendar and Rules begs leave to report that we have met and set the following bills on the Calendar for Thursday, May 18, 1989: House Bill(s) No(s). 724, 551, 1263 and 181; Senate Bill(s) No(s). 959; and House Bill(s) No(s). 761.

PHILLIPS, Chairman.

REPORT OF COMMITTEE ON CALENDAR AND RULES  
May 11, 1989

MR. SPEAKER: Your Committee on Calendar and Rules begs leave to report that we have met and set the following bills on the Calendar for Monday, May 22, 1989: House Bill(s) No(s). 762, 832 and 835; Senate Joint Resolution(s) No(s). 64; House Joint Resolution(s) No(s). 302 and 311; and House Bill(s) No(s). 598.

PHILLIPS, Chairman.

LOCAL BILLS TRANSMITTED TO CALENDAR AND RULES  
Thursday, May 11, 1989

In accordance with Rule No. 48, the following local bill(s), having received authorization for passage by the local legislative delegation, was/were transmitted to the Calendar and Rules Committee: House Bill(s) No(s). 407, 1532 and 1533.

REPORT OF COMMITTEE ON CALENDAR AND RULES  
CONSENT CALENDAR  
May 11, 1989

MR. SPEAKER: The officers of your Committee on Calendar and Rules beg leave to report that we have met and set the following bill(s) and/or resolution(s) on the Consent Calendar for Monday, May 15, 1989: House Bill(s) No(s). 563, 569 and 574; House Resolution(s) No(s). 55; House Joint Resolution(s) No(s). 396, 397, 398, 399 and 400; House Bill(s) No(s). 407, 1532 and 1533; and Senate Joint Resolution(s) No(s). 287 and 288.

PHILLIPS, Chairman.

ROLL CALL

The roll call was taken with the following results:

Present . . . . . 98



THURSDAY, MAY 11, 1989 -- FORTY-FIFTH LEGISLATIVE DAY

Representatives present were: Anderson, Armstrong, Bell, Bittle, Bivens, Bragg, Buck, Burnett, Byrd, Cain, Callicott, Chiles, Clark, Coffey, Collier, Copeland, Crain, Cross, Curlee, Davidson, Davis (Cocke), Davis (Gibson), Davis (Knox), DeBerry, DePriest, Dixon, Duer, Ellis, Gaia, Garrett, Givens, Good, Gunnels, Halteman, Harrill, Hassell, Haun, Hawkins, Head, Henry (Putnam), Henry (Roane), Herron, Hillis, Hobbs, Holcomb, Holt, Hubbard, Huskey, Jackson, Jones, R. (Shelby), Jones, U. (Shelby), Kent, Kernell, King, Kisber, Love, McAfee, McDaniel, Miller, Moody, Moore (Lawrence), Moore (Shelby), Naifeh, Napier, Niceley, Nuber, Odom, Peroulás, Phillips, Pinion, Pruitt, Purcell, Rhinehart, Ridgeway, Robinson (Davidson), Robinson (Hamilton), Robinson (Washington), Scruggs, Severance, Shirley, Sipes, Stallings, Stamps, Starnes, Turner (Hamilton), Turner, C. (Shelby), Turner, L. (Shelby), Ussery, West, Wheeler, Whitson, Williams, Winningham, Wix, Wolfe, Wood, Yelton, Mr. Speaker Murray -- 98.

On motion of Rep. Naifeh, the House adjourned until 5:00 p.m., Monday, May 15, 1989.